

The Council of the City of Modesto met in regular session this date at 7:30 P.M. as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Adams, Hammond, Robinson, Mayor Marks

Absent: Councilmen Anderson, Arata, Merrill

Councilman Arata arrived at 7:57 P.M

The pledge of allegiance to the flag was given by all those present.

Rev. Magnus B. Anderson, pastor of the Calvary Lutheran Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of December 18 and 26, and the same being available for public inspection and there being no objections, the minutes were approved.

#### MAYOR MARKS WELCOMED VISITORS

Mayor Marks welcomed those present from the Home and Garden Club and the League of Women Voters.

#### LETTER FROM LANDO WILLIAMS RE: TAXICAB DRIVER LICENSE 1-25.

A letter received from Lando Williams requesting that regulations provided in Section 4-6.705 (d) of the Municipal Code, prohibiting the issuance of a taxicab driver permit to "anyone convicted of driving a vehicle recklessly or while under the influence of intoxicating liquors or narcotics" be waived to permit the issuance of a permit to him. He stated that he had been convicted of reckless driving on August 28, 1954, when he was 19, but had not committed any traffic violations since that time.

Police Chief Bowers recommended that the code be amended to provide for some reasonable time limit on two of the three types of violations and suggested that a time limit of two years be established for reckless driving; five years for drunken driving and no change for narcotics violations. He pointed out that the Chief of Police would still have the power to cancel permits upon second violations, or improper conduct.

#### MOTION

That the City Attorney be instructed to prepare the necessary documents to amend the code as recommended by Police Chief Bowers

Moved by Robinson      Seconded by Hammond      Unanimously carried.

#### INVITATION FROM GOVERNOR KNIGHT TO CITY ATTORNEY TO PARTICIPATE IN STATE-WIDE CONFERENCE ON YOUTH PARTICIPATION IN COMMUNITY AFFAIRS 1-75

An invitation to the City Attorney, from Governor Knight, to attend the state-wide conference on Youth Participation in Community Affairs in Sacramento February 11-12, 1958, was noted. Invitations have also been received by the Council and other staff members.

## MOTION

That the communication be referred to the staff for review to determine which employee should attend the conference as representative for the city and that attendance of the employee selected by the staff be authorized if the conference fits within the general framework of the Council approved type of conference.

Moved by Hammond      Seconded by Robinson      Unanimously carried.

INVITATION FROM PRESIDENT RICO OF CENTRAL VALLEY LEAGUE FOR MEETING IN GUSTINE 1-75

An invitation to the Council members to attend the quarterly dinner meeting of the Central Valley League to be held in Gustine, January 23, was read. The City Clerk was directed to handle attendance arrangements.

COMMUNICATION FROM THE NEWMAN CHAMBER OF COMMERCE RELATING TO NAVAL INSTALLATIONS 1-123

A communication from the Newman Chamber of Commerce urging that the City "endorse an urgent request for the installation of naval advance training school facilities in Stanislaus County", was read.

The City Manager reviewed the previous action taken by the Council on this matter.

## MOTION

That Mayor Marks be authorized to write a letter to Senator Knowland, Senator Kuchel, Congressman McFall urging prompt consideration on the project.

Moved by Hammond      Seconded by Adams

Mayor Marks declared that the motion carried.

Councilman Robinson stated the reason he had voted against the motion was that he did not consider the navy training school installation a "desirable industry".

APPROVE SPECIFICATIONS AND AUTHORIZE BID CALL FOR PRINTING OF REVISED CODE PAGES 2-27

## RESOLUTION NO. 58-1

A RESOLUTION APPROVING SPECIFICATIONS AND AUTHORIZING THE CALL FOR BIDS FOR THE PRINTING OF REVISED OR SUPPLEMENTAL PAGES OF THE MODESTO MUNICIPAL CODE

Introduced by Adams      Seconded by Robinson

Ayes: Adams, Hammond, Robinson, Mayor Marks

Noes: None      Absent: Anderson, Arata, Merrill

The date set for the opening of the bids in the office of the City Clerk was Monday, January 20, at 2:00 P.M.

ACCEPT BID OF RICHFIELD OIL COMPANY FOR GASOLINE FOR YEAR ENDING JANUARY 15, 1959 2-51

## RESOLUTION NO. 58-2

A RESOLUTION ACCEPTING THE BID OF RICHFIELD OIL COMPANY FOR THE FURNISHING

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**OF GASOLINE FOR THE YEAR ENDING JANUARY 15, 1959**

Introduced by Hammond

Seconded by Robinson

Ayes: Adams, Hammond, Robinson, Mayor Marks

Noes: None

Absent: Anderson, Arata, Merrill

Councilman Arata arrived at this time.

**APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR RECONSTRUCTION OF DEL WEBB FIELD GRANDSTAND AND FACILITIES**

Plans and specifications for the construction of 1) reinforced concrete grandstand; 2) wood frame and stucco pressbox, and 3) concession building, were presented for Council consideration by the Director of Public Works.

Councilman Arata, Chairman of the Council Committee, recommended the construction of the concrete type of grandstand due to the City's past fire experience at Del Webb Field. He pointed out that there would be a gain of approximately 175 seats with the proposed arrangement. He noted that there were no backs on the seats, although they had been considered.

The Director of Public Works pointed out that the plans did not include the renovation of the field lighting damaged by the fire, which would be done separately at a nominal additional cost.

The City Manager pointed out that the nature of the construction and some of the major decisions, had previously been cleared with the Council.

The time set for the opening of the bids in the office of the City Clerk was 2:00 P.M., January 20, 1958.

**RESOLUTION NO. 58-3**

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF IMPROVEMENTS AT DEL WEBB FIELD**

Introduced by Arata

Seconded by Adams

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None

Absent: Anderson, Merrill

**ORDINANCE REGULATING SOUND TRUCKS AND SOUND AMPLIFYING EQUIPMENT**

**ORDINANCE NO. 217-C.S. entitled**

**"AN ORDINANCE AMENDING SECTION 4-2.20 AND ADDING ARTICLE 13 ENTITLED 'REGULATION OF SOUND TRUCKS AND SOUND AMPLIFYING EQUIPMENT' TO CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE"**

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson

Seconded by Hammond

Ayes: Adams, Arata, Hammond, Mayor Marks

Noes: None

Absent: Anderson and Merrill

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The City Attorney stated that the ordinance would eliminate the necessity of the Council considering each application to use sound amplifying equipment for non-commercial purposes. He stated that the ordinance prohibited the erection, maintenance or operation of sound amplifying equipment within 200 feet of the boundary of any area zoned as residential. He pointed out that this would eliminate its use on streets, such as McHenry and Yosemite, where strip commercial zoning existed, and limited its use primarily to the central commercial area.

FINAL ADOPTION OF ORDINANCE NO. 216-C.S. AMEND CODE RELATING TO CITY COUNCIL MEETINGS 3-30

ORDINANCE NO. 216-C.S. entitled

"AN ORDINANCE AMENDING SECTION 2-1.01 OF CHAPTER 1 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO CITY COUNCIL MEETINGS"

introduced on December 26, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Robinson

Seconded by Hammond

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None

Absent: Anderson, Merrill

FURTHER CONSIDERATION OF ANNEXATION OF GREGORY GARDENS #4 3-45

The City Manager reported on the meeting held with representatives from the City, schools and county to consider, 1) feasibility of annexing Gregory Gardens No. 4 to city and 2) whether the area could be served with city sewers.

He stated that the staff's study indicated that the southeast one-half of the addition could be served with the present sewer system. As proposed, he stated, the lots which could not be reached by sewers would be larger and served by septic tanks.

Director of Planning Smeath displayed a map showing the present zoning of the surrounding area, both in and out of the city, which indicated that this addition was bordered by agricultural area on the north and west, by the high school site on the east, and by Gregory Gardens #3 on the south.

The City Manager reported on a meeting of representatives of the city and county planning commission in which it was pointed out that certain factors made the annexation worthy of consideration, the area has been under development for a considerable time and a large portion can be served with city sewers. However, he stated, it must be made clear that this action must not set a precedent "to anything else or any place else". The County understands this situation but since the city can serve a portion and the county agriculture zoning is no near to the area that as a practical matter, since the county would have no legal basis to turn down the subdivision, the area should be developed within the city.

The City Manager reported that the proposal, that the proposed new high school in the area be served with city sewers by using a pump system, had been studied, but it now appeared, that with some reasonable arrangement of the buildings and improvements, it could probably be served by gravity. If it becomes necessary for the school to install a pump, he stated, the city would recommend that it be operated by the school. It appears that there might be some adjustment of the Cavil drain but this would be the school's obligation and if the drain has to be changed in Gregory Garden's #4 subdivision, it would be the subdivider's responsibility.

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The Director of Public Works answered a question raised by Councilman Adams on the adequacy of the Emerald Avenue trunk sewer to serve the west area. He reported that a study was planned by the staff, of flows on the Emerald Avenue line which would give the city essential data to determine whether additional capacities might be available in this area.

The Council discussed the zoning shown on the map displayed by the Planning Director indicating the counties zoning and the area which could be served with city sewers.

The City Manager suggested that Mayor Marks be authorized to write letters to the County Board of Supervisors, Modesto City Planning Commission and the County Planning Commission advising 1) that the Council had agreed to annex the Addition because of all of the conditions previously discussed; 2) that this decision would not set a precedent to apply to any other developments 3) that the cooperation of the groups is appreciated; 4) that further close cooperation in all phases of rural-urban zoning is urged.

The possibility of further residential development north of the new high school on Tully Avenue was discussed but it was agreed that this would be impossible if the county zoning is continued as agricultural.

Councilman Arata considered that the general public should be made aware of the fact, when they were considering the purchase of property, whether or not the property could ever be served by city sewers. They should know that they would be compelled to install a new sewer system by improvement district procedure if they bought land out of the sewer service area. He pointed out that the property owners now in the city had already paid for their sewer plant and should not be compelled to pay for another plant out in the northern area.

Mr. Smeath reported that the need for the new high school on Tully Avenue was not based on new subdivisions in the immediate vicinity but on the fact that the high school district served an area as far away as Salida.

Mayor Marks considered that it should be made clear to the real estate people and the general public that the Council is and has been in accord right along that the city ultimately will need another sewer plant in the northwest area, and that when the time arrives, it will be put in by improvement district procedure and the users will be required to finance it.

The City Manager stated that one method of limiting subdivision development in this area would be by county zoning. The city, he pointed out, has never before had the support from the county on zoning of surrounding area and the adoption of the general plan will help.

The Council discussed the possibility of asking the county to zone additional land in this area to agricultural zoning to prohibit subdivision development where sewers could not be provided.

The City Manager suggested that Mayor Marks' letter to the County ask that periodic meetings be held with the county and Commission to jointly discuss zoning and planning problems area by area.

The Council discussed the possibility of installing signs on the border line where sewer service would be available as a means of notifying the individuals who would be purchasing property. No action was taken on the suggestion.

Councilman Arata brought up the point of assessment of property based on zoning. He considered that when property was zoned agricultural, either inside or outside a city, it should be assessed as such, not on the basis that possibly in the future it might be zoned for subdivisions, industries, etc., since there was no definite guarantee that it would be used for these other purposes. The County Assessor should assess property only on the basis of the existing zone, he contended.

Mayor Marks considered that the adoption of the master plan would assist in the assessing of property.

The City Manager suggested that the Council go on record that when land is zoned and limited to long term agricultural use, no matter what its location, it should be assessed for agricultural purposes. If this would not be possible under the present state laws, the city should support any changes which would made it possible, he stated.

The City Attorney pointed out that the state consitution may preclude this because it provides property will be assessed at its full cash value.

**MOTION**

That the Council does go on record than when land is zoned and limited to long term agricultural use, no matter where located, it should be assessed on the basis of agricultural purposes and that if this is not possible within the present laws or state constitution, the city support the necessary changes which would make it possible.

Moved by Arata      Seconded by Robinson      Unanimously carried.

**MOTION**

The Council indicate its willingness to annex Gregory Gardens #4 Addition on the basis outlined in the Council discussion and that Mayor Marks so notify the County and City Planning Commission and Board of Supervisors and that the Council meet regularly with these bodies to discuss planning and zoning problems.

Moved by Robinson      Seconded by Arata      Unanimously carried.

**FURTHER CONSIDERATION OF SUGGESTION PLAN FOR CITY EMPLOYEES 6-31**

As directed by the Council, the City Manager read a report on a proposed simplified procedure for operating a suggestion plan for city employees a copy of which is on file with the records of this meeting.

Councilman Robinson suggested that at the end of the year an estimate be made of the administrative cost involved in administering the suggestion plan.

The City Manager recommended that a report be made on the plan at the end of this fiscal year. He outlined the proposed plan for outside aid in considering the suggestions.

After a lengthy discussion it was agreed that since the administration of the plan was the responsibility of the City Manager, that it would not be necessary for him to keep a detailed record of the cost of administration but he should at the end of six months evaluate the program for Council information.

**MOTION**

That the staff be authorized to put the plan into effect in the most practical manner to assure the desired result and the City Manager report back at the end of the six months period the value of the program.

Introduced by Hammond      Seconded by Adams      Unanimously carried

## RESOLUTION NO. 58-4

## A RESOLUTION ESTABLISHING AWARDS FOR EMPLOYEE SUGGESTIONS

Introduced by Adams                      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson, Merrill

## RESOLUTION NO. 58-5

## A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM GENERAL RESERVE TO MISCELLANEOUS UNCLASSIFIED OF \$375 TO COVER EMPLOYEES' MERIT AWARDS DURING FISCAL YEAR 1957-58

Introduced by Robinson                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson, Merrill

ESTABLISH POLICY OF GRANTING AWARDS TO CITY EMPLOYEES (SERVICE PINS) 7-62

## RESOLUTION NO. 58-6

## A RESOLUTION ESTABLISHING THE POLICY OF GRANTING AWARDS TO CITY OF MODESTO EMPLOYEES IN RECOGNITION OF LENGTH OF SERVICE

Introduced by Hammond                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson, Merrill

NOTICE OF PROPOSED ANNEXATION GREGORY GARDENS NO. 3 ADDITION TO CITY-FIX TIME AND PLACE FOR HEARING OBJECTIONS TO ANNEXATION 7-64

A recommendation received from the Planning Commission that Gregory Gardens No. 3 be annexed to the city was noted.

## RESOLUTION NO. 58-7

## A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE GREGORY GARDENS NO. 3 ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Robinson                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson, Merrill

The time set for the hearing was February 19 at 4:30 P.M.

REPORT ON MEETING OF AREA COMMITTEE ON PRELIMINARY PLAN 7-75

Mr. Smeath reported that the Area Planning Advisory Committee was holding a meeting on Tuesday, January 14, at 7:30 P.M. in the Council Chamber to set up procedure for consideration of the preliminary general plan. The Clerk was directed to remind the Council members of the time and place of the meeting on that day.

FURTHER DISCUSSION ON EXCLUSIVE BUS ZONES 7-95

A letter from Willis M. Kleinenbroich, operating the Modesto Motor

Bus Service was read, asking the Council to adopt a policy concerning the marking of exclusive bus zones;

- 1) Post a sign reading "bus loading zone-no parking between 6:00 A.M. and 6:00 P.M., Sunday and Holidays excepted"
- 2) Paint the curbing white and mark "bus loading zone"
- OR--
- 3) Paint an outline on the pavement indicating the size of the bus zone and mark "bus loading zone".

Traffic Engineer Carmody considered that it would be confusing to the motorist to have the curbs painted, since this normally meant a 24 hour regulation and the Council had indicated its intention to make the spaces available for public use after 6:00 P.M. He recommended that the city buy the signs, (alternative No. 1 only) and if there were any encroachments by trucks or cars then a supplementary message be painted on the curb or pavement.

The City Attorney pointed out that under the present city law, all the existing bus zones, with one exception, were exclusive between the hours of 6 A.M. and 6 P.M. The signs should be installed however, he stated, as suggested in alternate No. 1.

Mr. Tomson, speaking on behalf of the Bus Company, asked the Council consider, as an enforcement factor, the painting of the curbs as it created a psychological factor with the drivers, as they respected a painted curb. The posting of a sign, he contended, would not do the job. The painting on the curb or street also becomes an advertisement for the company, that the city does have a city bus system.

The Council discussed the following points:

- 1- That night time parking was not a factor, except one night a week, Thursday, shopping night;
- 2- That everything possible should be done to cooperate with the bus company to assure bus service for the community;
- 3- That the enforcement factor would be much clearer if the zones were made exclusive for 24 hours.

#### MOTION

That the City Attorney be instructed to prepare the necessary papers to establish the five bus zones in the seven areas requested by the Company as exclusive bus zones 24 hours per day and to paint the curbs red.

Moved by Arata                      Seconded by Mayor Marks

Mayor Marks declared that the motion had carried

#### MOTION

That the City Attorney be instructed to prepare the necessary papers to establish the remaining locations designated in Resolution No. 57-448 as loading zones for 24 hours per day, to remain painted yellow.

Moved by Arata                      Seconded by Adams

Mayor Marks declared that the motion had carried.

#### REPORT ON TEMPORARY REMOVAL FROM P.U.C. CALENDAR MATTER OF CROSSING GATES 10-60

The Council noted receipt of a Notice from the Public Utilities Com-

mission that the matter of the Commission's investigation into the safety and protection of certain railroad crossings over the Southern Pacific Company tracks in the City of Modesto, had been temporarily removed from its calendar.

The City Manager recommended, to which the Council concurred, that the matter be dropped until further work had been done on grade separations.

FURTHER CONSIDERATION OF INSTALLATION OF ADDITIONAL TRAFFIC SIGNALS 10-65

The Traffic Engineer's report to the City Manager on "traffic signals - new installations", dated Dec. 20, copies of which had previously been referred to the Council for consideration, was further discussed.

In answer to a question from Councilman Robinson, the City Manager recommended that due to the delay in the crossing gate project, the funds allocated in the budget for this purpose be used for additional traffic signals. He pointed out that these funds, along with funds to be paid by the state at certain intersections, would be sufficient to install the new traffic signals at the intersections listed in the report. He reported that negotiations with the state had been completed on the intersections of Ninth at Kansas, Needham and Tully, and Yosemite at Santa Cruz and LaLoma. He stated that negotiations with the state for intersections of Tenth Street at D; and G; 14th and Grand will be started if approved by the Council.

MOTION

That the staff be authorized to proceed on the basis outlined by the City Manager.

Moved by Robinson      Seconded by Adams      Unanimously carried

The City Manager called attention to the fact that the signals at LaLoma and Santa Ana by the Wilson School, previously discussed, were not included in the list because until the flow of traffic on Haddon Street can be changed by the closure of this street or by making it one-way away from LaLoma for the first block, the intersection cannot be properly signalized at a reasonable cost. Further study will be made with the P.T.A., schools, and property owners.

Councilman Arata asked that the staff write a letter to Pete Ruffino on the progress being made on the traffic signals on Yosemite and Santa Cruz.

CHANGING NO PARKING ZONE ON GRAND STREET BETWEEN GROVELAND AND BURNEY STREETS 10-100

RESOLUTION NO. 58-8

A RESOLUTION ESTABLISHING NO PARKING ZONE ON A PORTION OF THE NORTH SIDE OF GRAND AVENUE BETWEEN BURNEY AVENUE AND GROVELAND STREET IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 57-184

Introduced by Arata      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None      Absent: Anderson, Merrill

AUTHORIZE TRANSFER OF \$245 FROM PARKING RESERVE 10-115

RESOLUTION NO. 58-9

A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM PARKING RESERVE TO TRAFFIC

ENGINEER (PARKING) OF \$245 FOR RENTAL INCOME AND FIRE INSURANCE ON RIGGS PROPERTY

Introduced by Robinson                      Seconded by Arata

Ayes: Adams, Hammond, Robinson, Arata, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill

AUTHORIZE WITHDRAWAL OF MARSHALL PARK ADDITION FROM BURBANK FIRE DISTRICT 10-116

RESOLUTION NO. 58-10

A RESOLUTION WITHDRAWING CERTAIN DESCRIBED TERRITORY FROM THE BURBANK-PARADISE FIRE PROTECTION DISTRICT BY REASON OF ITS ANNEXATION TO THE CITY OF MODESTO (JAMES MARSHALL PARK ADDITION)

Introduced by Hammond                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill

DESIGNATE MARSHALL PARK ADDITION AS JAMES MARSHALL PARK 10-118

RESOLUTION NO. 58-11

A RESOLUTION DESIGNATING CERTAIN CITY PROPERTY AS JAMES MARSHALL PARK

Introduced by Robinson                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill

REQUEST FOR VARIANCE FROM THE MUNICIPAL CODE FOR CURB CUTS (Welton Company) 11-01

A request from Welton Company for a variance from the Municipal Code to permit a 12 foot curb between two curb cuts to be established in front of the Douglas Service Station at McHenry and Judith Lane, was considered. The situation has been checked, the Director of Public Works reported, and due to the construction, it would be necessary to narrow down the space between the curb cuts to provide for access to all of the pump islands at this particular station. He recommended the Council approve in principle that a 10 foot distance be allowed between 2-35 foot curb cuts, since it would not take place until McHenry Ave is improved.

MOTION

That the Council approve the recommendation of the Director of Public Works on this matter.

Moved by Robinson                      Seconded by Hammond                      Unanimously carried

REQUEST FOR VARIANCE TO PERMIT OBSTRUCTION IN SIDEWALK AREA OF CITY STREET 11-20

Requests were filed by Robert D. Mangum, 1013 Del Vale Avenue and George Klemm, 1109 Del Vale Avenue for a variance from the Municipal Code to install brick planter boxes which would encroach onto the street right of way, were read. Mr. Klemm's planter boxes had already been installed, without a permit, and Mr. Mangum was requesting the variance to install a similar arrangement on his property.

Mr. Ray reported on the investigations made by the city inspectors and

recommended that the requests for variances be denied.

After general Council discussion on the prevalence of similar encroachments throughout the city, it was agreed that the Council members should inspect the premises before any policy decision was made, which would require the removal of existing structures.

#### MOTION

That the matter be postponed until the next Council meeting.

Moved by Robinson Seconded by Hammond Unanimously carried

Mr. Ray pointed out that no action had been taken by the city on pre-existing structures in annexed areas, but the case in question did not fall within this category. When these matters are brought to the attention of the city, he considered, it would place a different standing on the city's liability in case of an accident. He recommended that the encroachment on the Klemm property be removed.

The City Manager pointed out the staff's problem was that it was continually requiring property owners to comply with the code and if others were permitted to leave encroachments which had been installed without a permit, it would not be fair to those who were compelled to abide by the law. He pointed out that if there were special conditions which might warrant these installations, such as drainage, etc. the Council could grant a permit for encroachment.

#### APPROVE AGREEMENT FOR EXTENSION OF CONTRACT FOR SEWER SERVICE TO STANISLAUS COUNTY HOUSING AUTHORITY 13-5

The City Attorney presented for Council approval an agreement which would extend for 5 years the furnishing of sewer service by the City to the Housing Authority of the County of Stanislaus.

#### ORDINANCE NO. 218-C.S. entitled

"AN ORDINANCE APPROVING AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS RELATING TO THE FURNISHING OF SEWER SERVICES"

was introduced and ordered published and printed as required by the Charter  
 Moved by Adams Seconded by Mayer Marks

Ayes: Adams, Arata, Hammond, Robinson, Mayer Marks  
 Noes: None Absent: Anderson, Merrill

#### REPORT ON CONSIDERATION OF POSSIBLE ANNEXATION OF HOUSING AUTHORITY PROJECT TO CITY 13-10

The City Manager recommended that request for the annexation of the Housing Authority project to the city be denied until such time as other areas in the immediate vicinity indicate interest in annexation. He pointed out that this project was isolated and would be difficult to furnish city services.

#### MOTION

That the Council indicate its approval of this procedure.

Moved by Hammond Seconded by Adams Unanimously carried.

#### REPORT ON REQUEST OF SOUTHERN PACIFIC COMPANY TO DISCONTINUE CERTAIN TRAINS 13-25

The Council noted a copy of an application received by the Public Utilities Commission from the Southern Pacific Company to discontinue the operation of passenger trains Nos. 59 and 60. No action was taken by the Council.

A brief Council discussion was held on the possibility of reduction of freight rates by the company if these trains were discontinued.

FURTHER CONSIDERATION OF PEDESTRIAN BRIDGE OVER M.I.D. LATERAL NO. 3 13-46

The City Manager reported on the staff's study on the request for the construction of an additional bridge across M.I.D. lateral No. 3 at some location between McHenry Avenue and Tidewater Southern railroad tracks.

The study indicates, he reported, that there were no children attending schools from the south of the canal. In view of the fact that the general plan for streets, etc. is progressing, the city should not take any further action on the request until the street patterns are cleared.

MOTION

That no further action be taken on the request for the construction of an additional bridge across M.I.D. lateral No. 3 until after the general plan has been completed.

Moved by Robinson Seconded by Adams Unanimously carried

REPORT ON NEGOTIATIONS WITH THE WESTERN UNION 13-52

With the unanimous consent of the Council, Councilman Arata was granted permission to report on a matter not on the agenda----negotiations with the Western Union on removal from the old Modesto Hotel building.

He stated that the Council committee had held further meetings with the representatives from Western Union and the company offered to move from the building within 60 days for a consideration of \$12,250.

MOTION

That the staff be authorized to proceed with negotiations with the Western Union for the removal from the building within 60 days on the basis of payment by the city of \$12,250.

Moved by Arata Seconded by Hammond Unanimously carried

REPORT ON WATER STUDY BY COUNCIL COMMITTEE 13-81

Councilman Adams, chairman of the Council Committee on water study, spoke briefly on the report of the studies and investigations of the committee and city staff. Copies of the report were distributed to the members for consideration at the next meeting.

The City Clerk was directed to send copies of the report to the absent council members and to place the matter on the agenda for the next Council meeting.

REPORT ON ANNEXATION ELECTION IN THE NORTHEAST ADDITION 13-105

The City Clerk reported that the annexation election held on January 7, 1958, in the Northeast Addition resulted as follows:

65 of the 127 registered voters had voted in favor of annexation  
26 had opposed the annexation  
1 absentee ballot had been cast

The official canvass of the ballots will be held at the next Council meeting, January 15, 1958.

CORRECTED REPORT ON FIREMEN-ON-DUTY TIME, OUTSIDE OF STATION 13-126

The City Manager reported that minor corrections had been made in the

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report on firemen's on-duty time outside of stations, which had been previously distributed to the Council members. He distributed copies of the corrected report to the members and asked that the original report be destroyed.

PROGRESS REPORT ON CITY HALL SPACE LAYOUT 14-03

The City Manager displayed sketches of the proposed city hall space layout for Council inspection which was informally discussed by the members and staff.


ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Hammond Seconded by Robinson Unanimously carried

The meeting was adjourned at 11:00 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Anderson, Arata, Merrill, Mayor Marks

Absent: Councilmen: Adams, Hammond, Robinson

Councilman Adams arrived at 4:11 P.M.

Councilman Hammond arrived at 4:14 P.M.

Captain James Kinley of the Salvation Army gave the invocation.

LETTER FROM MAYOR WARD BULL OF GUSTINE RE: LEAGUE MEETING 1-10

A letter was read from Mayor Ward Bull relating to the quarterly meeting of the Central Valley Division of the League of California Cities on January 23, in Gustine.

ACCEPT BID OF STANDARD MATERIALS INC. FOR IMPROVEMENT OF THE EIGHTH STREET PARKING LOT 1-15

A tabulation of the bids received for the improvement of the 8th Street parking lot was considered by the Council. The low bid was submitted by Standard Materials Inc. in the sum of \$13,141.15.

RESOLUTION NO. 58-12

A RESOLUTION ACCEPTING THE BID OF STANDARD MATERIALS, INC. FOR THE CONSTRUCTION OF THE EIGHTH STREET PARKING LOT

Introduced by Anderson                      Seconded by Merrill

Ayes: Arata, Anderson, Merrill, Mayor Marks

Noes: None                                      Absent: Adams, Hammond, Robinson

FINAL ADOPTION OF ORDINANCE NO. 217-C.S. REGULATION OF SOUND TRUCKS 1-17

ORDINANCE NO. 217-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-2.20 AND ADDING ARTICLE 13 ENTITLED 'REGULATION OF SOUND TRUCKS AND SOUND AMPLIFYING EQUIPMENT' TO CHAPTER 7 OF TITLE 17 OF THE MODESTO MUNICIPAL CODE"

introduced on January 8, 1958, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Merrill                              Seconded by Arata

Ayes: Anderson, Arata, Merrill, Mayor Marks

Noes: None                                      Absent: Adams, Hammond, Robinson

FINAL ADOPTION OF ORDINANCE NO. 218-C.S. APPROVE AGREEMENT WITH HOUSING AUTHORITY OF COUNTY OF STANISLAUS 1-19

ORDINANCE NO. 218-C.S. entitled

"AN ORDINANCE APPROVING AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE

**COUNTY OF STANISLAUS RELATING TO THE FURNISHING OF SEWER SERVICE"**

introduced on January 8, 1958, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Arata    Seconded by Mayor Marks

Ayes: Anderson, Arata, Merrill, Mayor Marks

Noes: None    Absent: Adams, Hammond, Robinson

**CONSIDER ORDINANCE PROHIBITING LANDING OF AIRCRAFT OTHER THAN AT AN ESTABLISHED AIRPORT 1-30**

The City Manager reported that at present there was no direct city control of the landing of aircraft in the city at other than established airports. This related, he stated, particularly to the landing of helicopters. Both the Airport Manager and Director of Public Works believe that this should be controlled due to the public hazard and recommend that all aircraft should be required to land at the airport except in emergencies or rescue missions.

**MOTION**

That the City Attorney be instructed to prepare an ordinance for Council consideration, as recommended.

Moved by Merrill      Seconded by Arata      Unanimously carried

**ORDINANCE AMENDING MUNICIPAL CODE RELATING TO TAXICAB DRIVER PERMITS 1-52**

ORDINANCE NO. 220-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-6.705 OF ARTICLE 7 OF CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICAB DRIVERS' PERMITS"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata    Seconded by Merrill

Ayes: Adams, Anderson, Arata, Merrill, Mayor Marks

Noes: None    Absent: Hammond, Robinson

**ESTABLISH EXCLUSIVE BUS ZONES AND LOADING ZONES 1-63**

The City Attorney, as directed by the Council, presented for Council consideration, resolutions which would establish exclusive bus loading zones in five basic areas, at 7 locations in the downtown area and 26 loading zones to be used jointly by the busses and the general public.

**RESOLUTION NO. 58-13**

**A RESOLUTION DESIGNATING BUS LOADING ZONES IN THE CITY OF MODESTO**

Introduced by Arata    Seconded by Merrill

Ayes: Adams, Anderson, Arata, Merrill, Mayor Marks

Noes: None    Absent: Hammond, Robinson

**RESOLUTION NO. 58-14**

**A RESOLUTION ESTABLISHING LOADING ZONES IN THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 57-448, RESOLUTION NO. 57-490, RESOLUTION NO. 6782-N.S., RESOLUTION NO. 54-264, AND RESOLUTION NO. 57-540**

Introduced by Adams           Seconded by Anderson

Ayes: Adams, Anderson, Arata, Merrill, Mayor Marks

Noes: None                   Absent: Hammond, Robinson

DISCUSSION ON GRANTING OF VARIANCES FROM CODE REGULATIONS RELATING TO CONSTRUCTION OF BRICK WALLS AND STRUCTURES ON SIDEWALK AREAS 1-82

The Council further considered the requests for variances from the Municipal Code filed by

George Klemm, 1109 Del Vale Avenue, to permit existing brick flower beds remain, which extended into the sidewalk area;

Robert D. Mangum, 1013 Del Vale, for a permit to install brick flower beds, which would extend into the sidewalk area

(A number of the members had made a personal inspection of the premises.)

The City Manager reviewed the problems involved in the granting of this type of variance and reviewed an earlier memo from the City Attorney relating to encroachments in the public right of way, between the property line and curb line. The memo pointed out the available courses of action, 1) require removal, 2) obtain the written agreement of the property owners to remove the encroachment upon notice from the City, at his own expense, 3) do nothing.

To a question from Mayor Marks---are there any unique problems existing at these locations which would warrant the granting of variances by the Council---Director of Public Works reported that the terrain was reasonably flat and drainage not too severe.

Councilman Adams suggested the Council establish a basis for granting this type of variance, a retaining wall will be required to correct a drainage situation. He pointed out the problem which would be involved by granting variances on any other basis due to the fact there were many existing encroachments not only in areas where sidewalks existed, but in other areas as well. He concurred in the report of the Director of Public Works---the terrain was flat on the Klemm and Mangum properties.

Councilman Arata pointed out the difficulties involved if the Council tried to force all persons to remove encroachments of flower beds, fences, and other type structures due to the large number of violations throughout the entire city, in the older sections as well as those areas annexed. He recommended that the Council set a date and prohibit all encroachment structures from that date on. Councilman Merrill concurred in this recommendation.

Councilman Adams brought up the point of enforcement if a date was set.

Director of Public Works Ray pointed out there would be many enforcement problems. He considered that there was an additional hazard existing on the Klemm and Mangum properties since a small sidewalk already existed and persons would be walking near the encroachments.

Councilman Hammond considered that the Council was trying to search for a policy of appeasement to get around an existing ordinance. He considered that it was dangerous to try to arrive at answers on the basis of appeasement because other problems arose as a result. The value of the existing ordinance should be considered and if it is valid, the Council should enforce the ordinance. If a variance was granted to Mr. Klemm it could be used as a precedent for owners to build encroachments and come to the Council later for approval. He pointed out that the work had been done after annexation of the area to the City.

Councilman Arata considered that since the city did not have any record of the number or date of construction of the numerous existing encroachment

structures, it would be best to set a definite deadline so that the general public would know that if one was built after this date it would have to be removed and that those now existing should be allowed to remain.

The City Attorney stated that while he agreed with the statements of Councilman Hammond---that if the city was to have an ordinance, it should be enforced or it should be done away with---there was a further complicating problem that even if it was done away with, it is still illegal because the sidewalk area is the city's property and it is trespass to use this property, without consent from the city.

Councilman Merrill considered that the flower beds, etc. which had been constructed in the area improved the city and that the matter should be approached from a practical viewpoint.

Mayor Marks asked how much of a problem it would be for the city staff to obtain a release from the persons who had structure encroachments that they would assume the liability in case of personal injury or property damage. It is possible when some of these persons recognize that there might be claims filed against them, they would automatically remove their structures.

Mr. Ray stated that he had no idea of what might be involved in securing these releases but it would take a long time with the present staff.

The City Manager pointed out that the staff had been requiring people to comply, where it is observed or brought to the staff's attention, and it would be difficult to explain why others were allowed to remain. As a practical matter at this point, he stated, the city can't go back and ask all the people to remove encroachments which have been built, in many cases, years ago and prior to annexation. There might be a legal question involved as to how far the city could go back and ask a man to remove an encroachment which is presently in violation but at the time of building was not in violation. He reminded the Council that the same problems had previously been raised on the construction of blacktop driveways. People understand this requirement now and are complying. They are not being required to remove existing blacktop driveways which were installed previous to annexation. He pointed out there was a difference between a structure encroachment and a planting encroachment and that grass was permitted.

Mr. Klemm stated that his neighbor, Mr. Mangum regretted that he had caused him so much trouble and had decided he would not go ahead with the flower bed encroachment on his property. He stated that he would also remove his encroachment if that was the desire of the Council.

Mayor Marks considered that it would be fairer to the property owners, if a date was to be set, that it be set as of this date rather than to go back for a certain time limit.

The City Manager pointed out that the staff had been requiring people to made expensive changes because they were in violation of the ordinance.

The problem of legalizing illegal existing structures, by setting a definite date and requiring all future construction to comply with the code was discussed. The circumstances in each case should govern the granting of a variance, Councilman Hammond contended.

The City Manager recommended that in each case where variances are granted for encroachments on public property, that the permit be on a revocable basis and on the basis that the city will be held harmless from any public liability claims.

The City Attorney stated that there would be legal difficulties in setting a specific date as discussed by the Council because the past structures were illegally put in.

#### RESOLUTION NO. 58-15

A RESOLUTION GRANTING REQUEST OF GEORGE KLEMM FOR VARIANCE TO PERMIT OBSTRUCTION  
1-15-58 Page 4

IN SIDEWALK AREA

Introduced by Merrill                      Seconded by Anderson

Ayes: Arata, Anderson, Merrill

Noes: Adams, Hammond, Mayor Marks

Absent: Robinson

Mayor Marks declared that the resolution did not carry. He stated that the reason he had voted "no" was because he considered that the granting of the variance, without tackling the entire policy, would be a very big mistake.

Council Arata moved, but the motion died for lack of a second, that a date be set as of this date which would require that no further variances be granted and that those existing be allowed to remain.

Councilman Hammond suggested that no date be set since neighborhood conditions would change over the years and that each request for variances be considered individually, as had been done in the past, to which the Council generally concurred.

RESOLUTION NO. 58-16

A RESOLUTION DENYING THE REQUEST OF ROBERT D. MANGUM FOR VARIANCE TO PERMIT OBSTRUCTION IN SIDEWALK AREA

Introduced by Mayor Marks                      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None    Absent: Robinson

ACCEPT BIDS ON AUTOMOTIVE EQUIPMENT 6-02

The Director of Public Works reported on the bids received for automotive equipment which had been opened at 2 P.M. Jan. 13, 1958. He recommended that the bid of Helm Chevrolet Company be accepted for items 1 through 6 for police cars with the trade -ins; the acceptance of the cash offer of \$500 submitted by Max Stroubharr on trade-in car on item 7 and the bid of Helm Chevrolet for item 7; the acceptance of bid submitted by Griswold and Wight for items 8,9,10 and 11 with the trade-in allowance on the old cars except on items 9 and 10; that the cash bid of \$120 of Henry Louis on trade-in for item 9 be accepted and the cash offer of \$110 submitted by G. W. Roberts for trade-in for item 10 be accepted.

He recommended that bids submitted for items 12, 13, 14 by Helm Chevrolet Company be accepted but the cash offer submitted by the Melody Motors of \$158 for item 12; \$258 for item 13 and \$358 for item 14 be accepted.

The Council discussed the possibility of rejecting the trade-in bids of \$350, each, submitted by Helm Chevrolet on items 1 through 6 for the 1956 police cars, and considering another bid call be made so that a better price could be obtained. The City Manager reported receipt of one higher informal offer on the cars.

The City Manager reported the Police Department had requested and he recommended that the trade-in car offered in item 3 be retained by the department to be used in radar operation.

The Council agreed that no further offers be considered on the trade-in cars offered under items 1,2,4,5 and 6 and that the trade-in offered on item 3 (car No. 6) be retained for use by the Police Department.

## RESOLUTION NO. 58-17

A RESOLUTION ACCEPTING THE BIDS FOR AUTOMOTIVE EQUIPMENT FOR THE CITY OF MODESTO

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

APPROVE APPROPRIATION TRANSFER FOR NORTHERN BOULEVARD ACQUISITION 6-100

## RESOLUTION NO. 58-18

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$10 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY TO COVER EXPENSES ON NORTHERN BOULEVARD PROPERTY ACQUISITION

Introduced by Arata                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

APPROVE APPROPRIATION TRANSFER FOR INDUSTRIAL WATER DEVELOPMENT 6-100

## RESOLUTION NO. 58-19

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$1,317 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY FOR INDUSTRIAL WATER DEVELOPMENT AT STATION NO. 20

Introduced by Anderson                  Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

GRANT PERMIT TO MODESTO JUNIOR CHAMBER OF COMMERCE USE OF PARKING SPACES HOLD ANNUAL 7-UP SALE FOR MARCH OF DIMES 1-120

A request was received from R. D. Wickman, Chairman of March of Dimes Committee of the Modesto Junior Chamber of Commerce, for the use of the first two parking spaces on I Street at 12th Street, adjoining the Courthouse Park, Saturday, Jan. 2, between the hours of 9:30 A.M. through 5:00 P.M. to sell cases of 7-Up in its annual campaign for funds.

## RESOLUTION NO. 58-20

A RESOLUTION GRANTING PERMIT TO THE MODESTO JUNIOR CHAMBER OF COMMERCE TO USE THE FIRST TWO PARKING SPACES ON I STREET FROM THE SOUTHWEST CORNER OF 12TH AND I STREETS FOR ITS CAMPAIGN FOR THE MARCH OF DIMES

Introduced by Anderson                  Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

CANVASS OF ELECTION RETURNS ON ANNEXATION OF NORTHEAST ADDITION 6-115

The City Clerk reported that 91 ballots had been cast at the polls at the election held on January 7 in the Northeast Addition; 65 in favor of annexation

to the city and 26 opposed to annexation; no ballots were voided and one absentee ballot was cast.

The Council canvassed the returns made out and signed by the election officers and tallied the absentee ballot which favored the annexation.

RESOLUTION NO. 58-21

A RESOLUTION DETERMINING THE RESULT OF AN ELECTION HELD IN THE NORTHEAST ADDITION FOR ANNEXATION OF SAID ADDITION TO THE CITY OF MODESTO

Introduced by Anderson      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                      Absent: Robinson

The City Clerk reported that the records of the County Clerk indicated that there were 167 registered voters in the area as of this date, which would give the city credit for a population of 501 for gas tax purposes, making the total city population as 34,433.

ORDINANCE NO. 219-C.S. entitled

"AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY KNOWN AS THE NORTHEAST ADDITION TO THE CITY OF MODESTO"

was adopted and ordered published and printed as required by the Charter.

Moved by Arata                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                      Absent: Robinson

DISCUSSION ON NEW LEGISLATION AMENDING GOVERNMENT CODE RELATING TO FIRE DISTRICTS 7-30

With the unanimous consent of the Council, County Fire Warden Ball was permitted to present a matter for discussion which had not been placed on the agenda----new state legislation relating to county fire protection.

He reported that a 1957 amendment to the Government Code of the State of California (Chapter 2160 Section 25643) provided that the Board of Supervisors in any county which provided county funds for structural fire protection of areas in the county in incorporated or unincorporated territory shall at the time of levying county taxes for support of said function, except from the levy of any tax all property within the limit of any incorporated city or fire protection district, which, prior to the time of making such levy shall petition the Board for exclusion.

He pointed out that the budget for the County fire department required 3¢ of the general fund. He stated that the city was receiving 32 deficiency points for the operation of the county department adjacent to the city and receiving 2½¢ reduction in insurance rates. He cited instances in the past where the County Fire Department had come to the assistance of the City and of the amicable relations between the city and county fire departments in the past. He asked that the City of Modesto not petition the Board of Supervisors to be excepted from the tax levy on property within the city limits as permitted by the new law.

Mayor Marks pointed out that since this was a new matter, the Council would require a report from the City Manager before any decision could be made.

The City Manager, in reply to a question from Mayor Marks, stated that unless there were more convincing arguments presented that he would recommend

that the Council request the Board to withdraw the City of Modesto from the tax levy for the support of the County fire department. He stated he wished to make a further check with the County Fire Warden and Chief Wemyss before any firm recommendation was made. He pointed out that the League of California Cities had worked hard to get this new legislation adopted and it was "another step in the direction of having people pay for what they get and not having the cities pay twice".

The City Manager was asked to work with County Fire Warden Ball and Fire Chief Wemyss and submit a report to the Council.

#### DISCUSSION ON LOCATION OF PROPOSED NEW COUNTY FIRE STATION

Ken Norris, Executive Director of the Stanislaus County Taxpayers' Association, reported that the matter of the tax levy had come up now due to the proposed construction of a new county fire station on the site of the present facility on California Avenue. He reported that the County Planning Commission was now considering the question of the site and the Association had taken the position that the fire station, if it is to be built, should not be built on this site.

He stated that a report by the County Planning Commission staff indicated that the center of activity for rural fire services was more to the east than the west. The Association considers that the entire question should be studied by the Board of Supervisors, relative to some other matters, the possibility of annexation of an extensive area in the general area of the California site, which would place three fire stations within a very restricted district, Burbank-Paradise, County and a new station proposed by the city in the capital improvement program. Problems of moving fire trucks through dense residential areas before they could get out to the areas they are serving should also be considered. He asked if the Council wished to express its attitude about the location of the new county fire station at this time since the County Commission would be considering the question January 16.

Mr. Ball referred to a letter by the City Manager relating to the location. The City Manager read a copy of his letter to the Board of Supervisors, dated April 4, 1955, which cleared the question of the legality of operating a county fire station located in the city limits. He pointed out that the letter did not go to the desirability of the location but only to the legality. He considered it would be desirable if the runs of the fire equipment could be minimized through the city.

Mayor Marks considered that before the Council took any stand on the location that the City Planning Commission and Traffic Department should have an opportunity to make a study. He agreed with a suggestion from Mr. Norris, that the city send a staff member to the Planning Commission hearing and a recommendation be made later to the Board at the time the location matter was considered.

The Council discussed the possibility of legislation on other types of service besides fire and the effect it would have on tax rates.

Mr. Norris reported that the Association was interested in the police protection phase and pointed out that at the time its study would be made the possibility of a recommendation to the Board of the establishing of a county service area.

The City Manager stated that the city should cooperate fully with the county and other neighboring cities to minimize the cost to the taxpayers for fire protection.

#### ACCEPT CONSTRUCTION OF A FENCE FROM COLORADO IRON AND FUEL CORPORATION 8-100

RESOLUTION NO. 58-22

A RESOLUTION ACCEPTING THE CONSTRUCTION OF CHAIN LINK FENCE AT DRYDEN

MUNICIPAL GOLF COURSE BY COLORADO FUEL AND IRON CORPORATION; AUTHORIZING PAYMENT OF AMOUNTS DUE; AND AUTHORIZING RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Adams                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

APPROVE AGREEMENT WITH WESTERN UNION COMPANY FOR TERMINATION OF LEASE AT OLD MODESTO HOTEL BUILDING 8-105

As directed by the Council, the City Attorney presented for Council approval, an agreement with the Western Union Telegraph Company for termination of its lease in the old Modesto Hotel building. He pointed out that the maximum time for the removal would be 90 days instead of 60 days as was reported in error at the last Council meeting. He outlined the terms of the agreement for Council information, which called for a payment by the city of \$12,500.

RESOLUTION NO. 58-23

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE WESTERN UNION TELEGRAPH COMPANY FOR TERMINATION OF LEASE AT OLD MODESTO HOTEL BUILDING

Introduced by Arata                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

REPORT BY WATER STUDY COMMITTEE 9-01

The report submitted by the Council Committee on the water study, copies of which had previously been distributed to the members for study, was considered. Councilman Adams reported that the committee recommended that the city negotiate with the firm of Leo W. Ruth, Consulting Civil and Mechanical Engineer toward an agreement for the necessary engineering services to complete the feasibility report. The letter submitted by this company setting forth the specific terms on the agreement which had been distributed to the Council was also noted.

Councilman Hammond raised the question of whether the city's engineering staff could make the informational study instead of hiring outside assistance.

The City Manager pointed out the desirability of having the study made by an independent professional firm with "no city tag on it".

Councilman Anderson pointed out the possibility that certain phases of the report might have to be presented in court and if it was made by an independent firm which had no interest in the city operation or private water companies, it would have more weight.

The City Manager pointed out that 1) the city was not trying to make a study to prove that it wants to buy some water systems but there is a need for better fire protection in some of the areas and 2) that every step taken could be clear, solid and firm in the minds of the public and parties concerned. He stated that there probably would be two phases to the study, and if the city decided after the first study, to purchase major portions or all of the water systems a more complex and professional detailed analysis must be made. The committee considered that the first study should be made by a firm qualified to make both studies if they were needed.

MOTION

That the City Attorney be instructed to draft an agreement with the firm of Leo W. Ruth for the making of a study, for Council approval.

Moved by Adams      Seconded by Mayor Marks      Unanimously carried

Councilman Adams suggested that a copy of the committee report be sent to the interested private water companies and they be kept fully informed of the progress of the project.

SUPPLEMENTAL REPORT ON PROPOSED NEW BUSINESS LICENSE ORDINANCE 9-92

Copies of a report on supplemental recommendations from the Citizen's Committee on Business License Tax Revision were distributed to the Council members for study.

The matter was ordered placed on the next agenda for determination on a schedule of operation.

REPORT ON PROPOSED CHANGE IN PROCEDURE IN COLLECTION OF DELINQUENT WATER BILLS 10-05

The present procedure for collection of delinquent water bills was outlined by Director of Finance Charles Bird. He recommended that instead of sending two notices during the first half of the month following the date of the original billing, one notice be sent on approximately the eighth of the month, allowing until the 15th of the month before the water is turned off.

The Council indicated its approval of this procedure.

FILING OF FINANCIAL STATEMENT FOR MONTH OF DECEMBER, 1957 10-10

Copies of the financial report for the month of December, 1957, were distributed to the Council members.

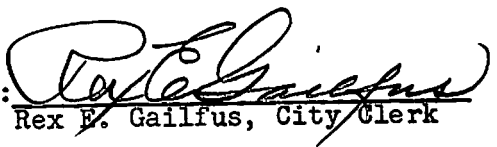
ADJOURNMENT

MOTION

That the Council meeting now in session adjourn.

Moved by Arata      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 6:20 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Absent: Councilman: Robinson

The pledge of allegiance to the flag was given by all those present.

Rev. R. L. Butterfield, pastor of the First Church of God, gave the invocation.

ACCEPT BID OF SPEARS CONSTRUCTION COMPANY FOR IMPROVEMENTS AT DEL WEBB FIELD 1-0

Tabulation of the bids received for the construction of improvements at Del Webb Field were distributed. Director of Public Works Ray recommended that the low offer of \$43,570 submitted by Spears Construction Company be accepted although it exceeded the engineer's estimate by 11.5%.

The City Manager reminded the Council that a transfer of funds would be needed to cover the difference between the funds received from the Insurance Companies and the cost of the project.

RESOLUTION NO. 58-24

A RESOLUTION ACCEPTING THE BID OF THE SPEARS CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF IMPROVEMENTS AT DEL WEBB FIELD

Introduced by Arata                      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

CLAIM AGAINST MODESTO COMMUNITY ATHLETIC ASSOCIATION 1-30

The City Manager noted that a city claim against the Modesto Community Athletic Association of \$3,089.86 for wages due Police Officers at the Del Webb Field for period April 1, through September 15, 1952 and May 1 through July 1, 1953, has now been outlawed by the statute of limitations. He recommended that it be removed from the city's delinquent accounts. The Council concurred in this recommendation.

COUNCIL APPROVE LOCATION OF ARMY RESERVE CENTER AT MODESTO 1-40

Captain Leslie Pryce of the United States Army Reserve reported that federal funds had been allocated for the construction of an Army Training Center in Modesto. He reported on the seven locations under consideration. The District Engineers from San Francisco, he stated, would be in Modesto Jan. 23-24, to survey the sites and make a selection, but prior to the selection of a site, the Council's approval is requested that an armory or a reserve center can be constructed at Modesto. He asked that if the Council approved this proposal, a resolution be adopted to this effect. He stated that the structure would meet all local zoning and construction requirements, and the final location cleared with the city staff.

The Council indicated its approval of the general proposal to locate a training center at Modesto and authorized the city staff to work with the Army Reserve to help determine a precise location which would be desirable both from the standpoint of the City and the organization.

RESOLUTION NO. 58-25

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**A RESOLUTION APPROVING THE GENERAL PROPOSAL OF THE UNITED STATES ARMY RESERVE TO CONSTRUCT A TRAINING CENTER AT MODESTO**

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Robinson

Councilman Arata left the meeting at this time.

**LETTER FROM UNITED STATES CONFERENCE OF MAYORS RELATIVE TO MEMBERSHIP 1-109**

An invitation to Mayor Marks to join the United States Conference of Mayors was read and ordered filed.

**LETTER FROM LOCAL PLANNING OFFICE RE: CITY'S APPLICATION FOR FEDERAL PARTICIPATION IN PLANNING PROJECTS 1-115**

City Manager Miller reported receipt of a letter from the Local Planning Office of the State of California advising that federal funds were not available for the first quarter of this year but the city's application for federal participation in the three planning projects, 1) relocation of railroads; 2) central business district; and 3) neighborhood studies, would be considered for the quarter starting April 1, 1958.

**ACCEPT BID OF BELT PRINTING COMPANY FOR PRINTING OF REVISED SUPPLEMENTAL PAGES OF THE MUNICIPAL CODE 2-07**

Tabulation of the two bids received for the printing of revised supplemental pages of the Municipal Code were considered by the Council. The City Clerk recommended that the low offer of \$9.50 per page, submitted by Belt Printing Company be accepted.

**RESOLUTION NO. 58-26**

**A RESOLUTION ACCEPTING THE BID OF BELT PRINTING COMPANY IN THE AMOUNT OF \$9.50 PER PAGE FOR THE PRINTING OF REVISED SUPPLEMENTAL PAGES OF THE MUNICIPAL CODE OF THE CITY OF MODESTO**

Introduced by Anderson                      Seconded by Merrill

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                                  Absent: Arata, Robinson

**APPROVE PLANS AND SPECIFICATIONS FOR INSTALLATION OF 6" WATER LINES AT THE MUNICIPAL GOLF COURSE 2-15**

Plans and specifications for the installation of 2813 feet of C.I. 6" water lines to replace the present water pipe at the Municipal Golf Course were presented for Council consideration. The Director of Public Works stated that the cast iron pipe to be installed was previously purchased by the city.

The City Manager answered a question from the Council that the future use of this watering system would tie in with any future recreational use to be made of the park after the completion of the 18 hole golf course, and had been included in this year's budget.

The Director of Public Works reported that the course would be closed two weeks during the installation of the pipe since the golfers would be a hazard to the workmen as the line cut across the course.

**RESOLUTION NO. 58-27**

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING**

## FOR BIDS FOR THE INSTALLATION OF 6" WATER LINES AT THE MUNICIPAL GOLF COURSE

Introduced by Anderson                      Seconded by Hammond

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Arata, Robinson

DISCUSS PLANS FOR 18 HOLE GOLF COURSE 2-50

Answering a question from Councilman Anderson---how soon would the call be made for bids for a water line for the 18 hole course---Mr. Ray reported that the location of the well was being considered at this time to determine the type and amounts of pipe needed. As soon as this data is accumulated, the call for bids will be made. The City Manager stated that volunteer help for the installation of the pipe has been offered. He reported that there was an existing well on the course with sufficient volume, but the chloride content was high. The investigation being made is to determine whether this well can be rehabilitated at a cost comparable to the cost for drilling a new well. A report will be submitted to the City Manager shortly, he stated.

Mayor Marks suggested it would be good public relations to erect a sign in front of the Clubhouse at the Municipal Golf Course to notify the general public, during the construction period of the water lines, that the funds were budgeted for the repairs and they were being made because the ultimate use of the course would be for a regional park, that the job was necessary and the patience of the golfers during the construction period is requested.

Councilman Merrill took exception to the statement of Mayor Marks that the present Municipal Golf Course would ultimately be used as a regional park. He contended that the Council had never taken any formal action on the question of the future use of the Municipal Golf Course after the development of the Dryden Park Municipal Golf Course. Perhaps, he stated, in the foreseeable future, there will be a need for the present course as a golf course.

Mayor Marks considered that two 18 hole golf courses, the Dryden Park and the Del Rio Course, would adequately serve the community for 20 to 25 years.

The City Manager stated it was his understanding, and it had been clearly stated as one of the conditions of Mr. Dryden's gift, that this area was to be used as an area park after the development of the 18 hole course. If there is any doubt about this, he stated, it should be cleared because the general public is being told that it would be used for a park.

Director of Parks & Recreation Lowrey stated that the Golf Club members, in presenting their petition for development of the 18 hole course, had indicated that they would like to see the Municipal Golf Course developed as a regional park.

Councilman Merrill contended that the Council should withhold any decision on the present golf course until the new course was developed.

After a general discussion on the propriety of installing a sign at the Municipal Golf Course and on the wording to be used on the sign, the Council agreed on the following general wording: "This project is for repairs to the present facilities and will not hinder progress on the Dryden Park Municipal Golf Course".

Mr. Lowrey stated that at the time of the award of bids for the work, Council action would be necessary approving the closing of the course during repairs.

Mayor Marks stated that it had always been his understanding that the Municipal Golf Course was to be used as a park and asked that the record of the

minutes, deeds, etc. be researched and a report prepared for the Council to determine the status.

MOTION

That the staff make a report to the Council on the commitments of the Council as to the use of the Municipal Golf Course after the development of Dryden Park Municipal Golf Course.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried.

ORDINANCE AMENDING CODE RELATING TO LANDING OF AIRCRAFT 3-20

As directed by the Council, the City Attorney presented for Council consideration an ordinance which would regulate the landing of aircraft.

ORDINANCE NO. 221-C.S. entitled

"AN ORDINANCE ADDING SECTION 4-2.08 TO CHAPTER 2 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO LANDING OF AIRCRAFT"

was introduced and ordered printed and published as required by the Charter.

Moved by Anderson      Seconded by Hammond

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Arata, Robinson

FINAL ADOPTION OF ORDINANCE NO. 220-C.S. TAXICAB DRIVERS' PERMITS 3-25

ORDINANCE NO. 220-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-6.705 OF ARTICLE 7 OF CHAPTER 6 OF TITLE IX OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICAB DRIVER'S PERMITS"

introduced on January 15, 1958 and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Anderson      Seconded by Hammond

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Arata, Robinson

ORDINANCE AMENDING CODE RELATING TO SEWERS 3-52

Councilman Adams, Chairman of the Council Sewer Committee, reported on the study made by the committee on changes in the code relating to domestic waste disposal.

The Director of Public Works reported that an ordinance had been prepared for Council consideration which would amend the Municipal Code to provide a formal basis for extension, and perimeter sewers and sub-trunk sewer participation by the city which had been done on an informal basis in the past. It also sets up a basis for collection of reimbursement of funds that the city has expended on perimeter sewers and sub-trunk sewers, upon which a policy has not yet been established. He reported on the other provisions of the ordinance which related to sewer lateral charges, sewer service fund, etc.

ORDINANCE NO. 222-C. S. entitled

"AN ORDINANCE AMENDING SECTION 5-6.108 AND 5-6.109 OF, AND ADDING SECTION 5-6.108.1 TO ARTICLE I OF CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL CODE,

AND REPEALING SECTION 5-6.110 THEREOF, AND AMENDING SECTION 5-6.212 TO ARTICLE 2 OF CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO DOMESTIC WASTE DISPOSAL"

was introduced and ordered printed and published as provided by the Charter.

Moved by Adams                      Seconded by Merrill

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                              Absent: Arata, Robinson

AUTHORIZE FACSIMILE SIGNATURES ON THE CITY OF MODESTO PAYROLL AND GENERAL FUND CHECKS 3-105

The City Attorney presented for Council consideration a resolution which would authorize facsimile signatures on city checks. He called the attention of the Council to the wording in Section 4 of the resolution which provided that "The Modesto office of the Crocker-Anglo National Bank of San Francisco shall be entitled to honor and to charge this city for all such checks, drafts or other orders for the payment of money, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such facsimile signature or signatures resemble the facsimile specimens from time to time filed with said office of the City Clerk of this City".

After a general Council discussion on the wording of the section, the City Manager was asked to check out the provision and report to the Council if he deemed it necessary.

RESOLUTION NO. 58-28

A RESOLUTION AUTHORIZING FACSIMILE SIGNATURES ON THE CITY OF MODESTO PAYROLL AND GENERAL FUND CHECKS

Introduced by Merrill                      Seconded by Anderson

Ayes: Adams, Anderson, Merrill, Hammond, Mayor Marks

Noes: None                              Absent: Arata, Robinson

CONSIDER MATTER OF BUSINESS LICENSE TAX REVISION 4-30

The City Manager stated that five alternative actions which the Council might take in considering the Business License Tax Revision were listed in the memorandum from the Finance Director, "Report on Status of Business License Ordinance Revision", dated December 17, 1957:

- 1- Acceptance of committee's proposal, as is;
- 2- Give special consideration to the items in the proposal which the Council, in its judgment, may wish to revise, delete or add;
- 3- Continue study of revision predicated on an alternative tax basis;
- 4- Consider revision of the present business license ordinance, deleting the personal property tax credit and adjusting gross receipts rate, and improving sections which affect the administration and enforcement;
- 5- Take no action to revise the present ordinance at this time.

He recommended that alternative No. 2 be followed. He noted that the 1958-59 budget was already under preparation and asked that any changes which might be made in the ordinance be made effective as of July 1, and be cleared in time to prepare all administrative forms and make necessary changes.

Mayor Marks stated that the Council had promised persons who had previously discussed the proposed revision, an opportunity to be heard before a final draft was adopted.

#### MOTION

That alternative No. 2 in the report be followed and all interested parties be notified that it will be placed on the agenda for Council meeting of February 5, and be sent copies of the report.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

Councilman Hammond suggested that Malcolm Davisson be notified of the meeting also. The Council discussed the possibility of holding a special meeting to consider the ordinance in tentative form and agreed that a discussion on the committee's proposals be held at a regular meeting.

The City Manager asked and the Council concurred that if it would not be possible for Mr. Davisson to be present on February 5 that another date be considered for a special meeting.

#### CLEAR LIST OF ACTIVE COUNCIL COMMITTEES 5-1

Mayor Marks brought to the attention of the Council that by precedent and practice the Council has established its policy----that each Council committee served on a temporary basis for the duration of its specific assignment and is to be disbanded when that assignment is completed.

He pointed out that this is a sound and workable policy which not only benefits the present Council but provides a proven precedent for the guidance of future Councils. Council members also are designated to represent the City in other official capacities, he stated.

He recommended that the list of committees be reviewed and all committees not currently working on an active assignment be disbanded in accordance with policy. He also recommended that the Council consider whether the remaining assignments were properly spread among the members and make any changes which seem indicated.

The following committees were approved by the Council to remain active:

<u>Council Committees</u>	<u>Members</u>
Cavil Drain, M. I. D. Franchise	Adams, Merrill, Robinson
Dennett Dam	Adams, Arata
Garbage	Adams, Merrill, Robinson
Industries for City	Hammond, Arata (Mayor to assist)
McHenry Avenue Drainage	Adams, Merrill, Robinson
Parking	Hammond, Anderson, Merrill
Sewer	Adams, Merrill, Robinson
Tidewater Southern Franchise	Arata, Hammond, Merrill
Water Study	Adams, Anderson, Robinson

Other Assignments

Stanislaus Cities-County Advisory  
Planning Committee

Board of Directors, East Modesto  
Sanitation District

Stanislaus City-County Committee

Executive Committee of the Central  
Valley Division of the League of  
California Cities

Members

Robinson, Alternate Anderson

Mayor Marks, Robinson

Mayor Marks, Alternate Robinson

Mayor Marks, Alternate Hammond

The City Manager reported that the city and county had recently consulted on the general nature of the agreement for the proposed construction of Dennett Dam and that he hoped it would be presented to the Council and Board for consideration at an early date. He recommended that the Council committee remain until the contract for the work has been cleared.

The committees which were disbanded are as follows:

Drainage on Tully Avenue

Garrison School Park

Holiday Pay for policemen and firemen

Old John Muir School

Airport Land acquisition

Naming of John Muir School

Special Assignment of Councilman Hammond as Council representative with Chamber of Commerce for obtaining industries in city

Appraiser for staff

Sales and Use tax

James Marshall Park

Airport annexation and tax problems

Baseball Field Repair

Redraft of business license ordinance (Mayor Marks to work with Committee)

Mayor Marks asked the City Clerk to prepare a new report summarizing the remaining assignments to be considered at the next meeting.

## MOTION

That the committees indicated in the Council discussion be deleted and all others be considered active.

Moved by Merrill      Seconded by Hammond      Unanimously carried

RESOLUTION AUTHORIZING TRANSFER OF FUNDS - IMPROVEMENT OF 8TH STREET PARKING  
LOT 5-115

RESOLUTION NO. 58-29

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$15,517 FROM PARKING FUND

RESERVE TO TRAFFIC ENGINEERING (PARKING FUND) FOR DEVELOPMENT OF 8TH STREET  
PARKING LOT

Introduced by Merrill                      Seconded by Hammond

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Arata, Robinson

APPROVE SCHEDULES OF ROUTES AND OPERATING TIMES OF THE MODESTO MOTOR BUS  
SERVICE 5-115

The City Attorney presented for Council consideration a resolution which would approve the schedules of routes and operating times filed by the Modesto Motor Bus Service in the office of the City Clerk on January 14, 1958.

RESOLUTION NO. 58-30

A RESOLUTION APPROVING SCHEDULES OF ROUTES AND OPERATING TIMES OF THE MODESTO  
MOTOR BUS SERVICE IN THE CITY OF MODESTO

Moved by Anderson                              Seconded by Adams

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Arata, Robinson

CONSIDER REQUEST BY RED TOP TAXICAB COMPANY FOR CAB STAND CHANGE 5-118

Traffic Engineer Carmody reported on the request filed by Red Top Taxicab Company for relocation of its stand on 11th south of J Street at Penney's store to a new location on J Street in front of the Covell Hotel and on the request to establish a third stand (to be used at night) effective 6:00 P.M. to 6:00 A.M. in the loading zone on 10th Street near J Street. He listed the locations of taxistands in the immediate area which were used by Smitty's Cab Co. He stated that the Red Top Co. had asked that the cab stand fee of \$15.00 monthly, for the limited operation on Tenth Street be reduced or the stand be granted free of cost by the city. He pointed out that the City's policy on taxicab stands was---two stands per three cars. On the basis of the four cabs operated by this company, it would be entitled to 2.67 stands.

He suggested that the fraction of a stand on Tenth Street could be granted on a proportional charge, either \$4.27 monthly on the basis of using it between 10:00 P.M. and 6:00 A.M. or \$7.50 on the basis of using it between 6:00 P.M. and 6:00 A.M.

He stated that Red Top handles most of Covell Hotel's customers and had an exclusive line to the Hughson Hotel in the same block. He pointed out the present difficulties involved in sending a cab to Hotel Covell from the 10th and J and 11th and J Street stands. He was opposed to the locating of an additional cab in front of the Covell since it would place 3 cabs within a block covering the two hotels, with two separate cab companies located close to each other which might "lead to trouble".

Councilman Adams suggested the Red Top move its present stand near Penney's across the street adjacent to the Victor Drug Store.

Mr. Lane, operating Red Top Taxi, agreed that this location for a taxi stand would be satisfactory. He objected to paying the fee of \$15 per month for the part time use of the stand by Grayson's store.

The Council generally agreed that the rental fee of \$15 should not be reduced.

The staff was directed by the Council to check out the possibility of relocating the Red Top Taxi stand from Penney's store to a new location on 11th street adjoining the Victor Drug Company and present a report to the Council at its next meeting, February 5, 1958.

#### DISCUSSION ON SENATE CONCURRENT RESOLUTION NO. 26 6-100

With the unanimous consent of the Council the matter of the Senate Concurrent Resolution No. 26---state-wide plan of freeways and expressways, which had not been included on the agenda was brought up for further Council discussion.

The City Manager briefly outlined the report he had previously sent to the members of the Council on the matter.

Robert Gillispie, Division of Highways District Ten Resolution No. 26 representative, answered a question from Mayor Marks on information desired by the State Legislature. He stated that the Division of Highways had already made the recommendation that all of the state highways in the Modesto area be freeways by 1980.

The City Manager stated that the State, in its presentation to the Legislature, will say, for example, that Route 109 (Yosemite Avenue) in their judgment should be a freeway by 1980, although the precise location has not been determined. The State has asked the City of Modesto to present to them, in addition to state highway matters, any other routes in this Modesto community which in the City's judgment will be either freeways or expressways by 1980. For example, proposed on the preliminary plan, he pointed out, is Briggsmore, Northern Boulevard Route as an expressway. There may be others also. After the study of the preliminary plan is completed, other roads may be included, he stated. The report must be in by March 1 and it is possible the study on the preliminary plan may not be completed but some points could be made in a report to the state.

Mayor Marks pointed out the importance of filing a report with the State by the deadline date of March 1, to indicate the city's interest and recognition of the traffic problems. Changes could be made at a later date, he pointed out.

The Council discussed the possibility of discussing this matter at the Area Committee meeting on the Preliminary plan, being held on February 3. Councilman Anderson, the Council representative, pointed out that the study was on the streets which would connect Ceres or Empire to the City of Modesto. The actual study on the street system within the city itself would be up to individual cities and not up to the Area or City-County committee.

#### MOTION

That the City Manager submit a further report to the Council on this matter so that a report can be made to the State by March 1.

Moved by Hammond      Seconded by Mayor Marks      Unanimously carried.

#### REPORT ON REINSTATEMENT OF C. W. MASONHEIMER AS ASSISTANT CITY MANAGER 8-05

The City Manager reported on the reinstatement of C. W. Masonheimer as Assistant City Manager.

#### RESOLUTION NO. 58-31

A RESOLUTION APPOINTING C. W. MASONHEIMER, CITY MANAGER PRO TEMPORE DURING THE ABSENCE OR DISABILITY OF THE CITY MANAGER

Introduced by Adams      Seconded by Hammond

Ayes: Adams, Anderson, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Arata, Robinson

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CLEAR ATTENDANCE OF CITY MANAGER AND ASSISTANT CITY MANAGER TO THE CITY MANAGER'S CONFERENCE IN LONG BEACH 8-10

MOTION

That the City Manager and Assistant City Manager be authorized to attend the City Manager's Conference being held in Long Beach on February 12-14.

Moved by Adams                      Seconded by Mayor Marks      Unanimously carried

DISCUSSION ON URBAN REDEVELOPMENT PROGRAM 8-35

Mayor Marks suggested that the City Manager investigate what other cities were doing on their urban redevelopment program while he was attending the conference.

The City Manager suggested a Council tour in the near future through the city's industrial area where certain conditions were hampering development. He stated that this was the number one project on the Advance Planning program for this year.

REPORTS FROM THE PLANNING DEPARTMENT 8-46

The City Manager reminded the Council members of a hearing being held in Fresno, Friday, January 24, of the Assembly Committee on Planning, Conservation and Public Works. They will consider the matters which should be presented for the consideration of the Legislature at its next session. He read a statement similar to one adopted by the Planning Commission relating to some of the important matters to be considered by the Committee, a copy of which is on file with the records of this meeting.

MOTION

That the presentation of this statement at the hearing as the City Council's policy is authorized.

Moved by Adams                      Seconded by Hammond      Unanimously carried

Mayor Marks asked and obtained permission to also present this statement as the Council's policy at a dinner meeting of the Real Estate Board.

ADJOURNMENT

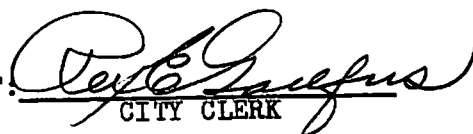
MOTION

That the meeting now in session be adjourned

Moved by Mayor Marks      Seconded by Adams      Unanimously carried

The meeting was adjourned at 9:30 P.M.

ATTEST:

  
CITY CLERK

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Arata, Hammond, Merrill, and Mayor Marks

Absent: Councilmen Adams, Anderson, Robinson

Councilmen Adams and Robinson arrived at 4:10 P.M.

The pledge of allegiance to the flag was given by all those present.

A few moments of silent prayer were observed.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of January 8, 15, and 22, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM C. E. LORD RE: CONDITION OF SYCAMORE AVENUE NEAR ORANGEBURG AVENUE 1-10

A letter was read from C. E. Lord, 1128 Sycamore Avenue, relating to the poor drainage condition on Sycamore Avenue near Orangeburg Avenue where some of the property owners had not yet installed curbs, gutters and sidewalks. He pointed out that over 51% of the owners in this block had installed these improvements and asked the city to start proceedings to force the other owners to complete the improvements in the block.

Director of Public Works Ray reported on the condition of the street in respect to curb and gutters. He pointed out that in this particular case the State law requirements were met both in respect to sidewalks and curb and gutter, as set forth in Sections 5870 through 5894 inc. of the Streets and Highways Code. He suggested that, if the action was to be taken by the City, the property owners who had not installed the improvements be contacted personally first. Before any formal action was taken, he stated, it would be well for everyone to realize that it may help the drainage situation referred to in Mr. Lord's letter but there would still be some remaining drainage problems since this would be the low point of the block. Dry wells can be installed which will assist in some degree, if the curbs and gutters are completed for the block.

He suggested that this same type of activity be given to other locations throughout the city as there were many cases where one lot in a full block is not improved and a lot of benefits could be received if improvements were contiguous. Such a city-wide program would be beneficial to everyone concerned. He pointed out that the program could be delayed until April 1 since it was the city's policy that no street work will be done adjacent to new curbs and gutters until after this date.

To a question from Mayor Marks, Mr. Ray recommended that the city contact the remaining property owners and explain the benefits to be derived and ask them to voluntarily construct the improvements. Since there would be a majority rule situation, he continued, if they fail to install the improvements, the city would have to inform them that action would be requested from the Council to proceed under the provisions set up in the State law.

## MOTION

That the procedure outlined by Director of Public Works Ray be approved.

Moved by Merrill      Seconded by Robinson      Unanimously carried

LETTER OF RESIGNATION FROM PLANNING COMMISSION RECEIVED FROM A. C. MERRILL 1-80

A letter from A. C. Merrill, submitting his resignation as a member of the Planning Commission, was read.

## MOTION

That the resignation be accepted and Mayor Marks be authorized to write a letter of appreciation on behalf of the Council and a certificate of service be given Mr. Merrill.

Moved by Hammond      Seconded by Arata      Unanimously carried

Mayor Marks recommended, to which the Council concurred, that this meeting be adjourned until 7:00 P.M., February 13 and the Council meet in executive session, prior to the regular meeting, to consider appointments to the three vacancies on the Planning Commission and the newly created Board of Electrician Examiners.

The City Clerk was instructed to notify the Council members of the vacancies on the other Boards and Commissions so that arrangements could be made for the Council to consider appointments at a subsequent meeting.

The Council generally agreed that the appointments were to be made at the same meeting they were considered.

LETTERS FROM SENATOR KNOWLAND AND CONGRESSMAN McFALL RE: NAVY TRAINING CENTER LOCATION 2-07

Letters sent to Mayor Marks by Senator William F. Knowland and Congressman Jonn J. McFall relating to the establishment of a Navy Training Center in the vicinity of Newman were read and ordered filed.

REQUEST OF BOY SCOUTS TO USE CITY STREETS OR SIDEWALKS TO PUT ON DEMONSTRATION IN DOWN-TOWN AREAS DURING NATIONAL SCOUT WEEK

A letter from the Yosemite Area Boy Scouts of America was read, requesting permission to put on demonstrations in the downtown areas on Saturday, Feb. 8 during National Boy Scout Week, either on the sidewalks in front of a few stores or in a metered car parking space. Locations requested were, 1) Southeast corner 11th and J (Penney's); 2) Northeast corner 11th and J (American Trust); 3) Northeast corner 10th and K (Sear's) and 4) Southeast corner 10th and K (Thrifty's). The displays will be on the sidewalk at the curb line so that no parking spaces will be blocked; small in design and not interfere with the normal flow of pedestrian traffic and attendants will be limited to 3 or 4 scouts to avoid congestion.

The City Manager pointed out that this would be a recurring annual event and in the past in similar cases the staff has been authorized to make the necessary arrangements. He suggested, to which the Council concurred, that it would not be necessary to bring the matter before the Council each year but the staff should be authorized to made the necessary arrangements without Council action.

## MOTION

That the request be granted and the staff be authorized to make arrangements for the displays each year without further Council action.

Moved by Robinson    Seconded by Hammond    Unanimously carried

APPROVE ABSENCE OF TRAFFIC ENGINEER FROM COUNCIL MEETINGS 2-29

The City Manager reported that Traffic Engineer Carmody had requested permission to be absent from some of the Council meetings to enable him to attend a special class at the University of California which was held on Wednesday evenings during the period of February through June. He pointed out that whenever major traffic matters were to be considered Mr. Carmody would arrange to be present at the Council meeting. Other city employees were also attending, he reported. No Council objections were raised.

REJECT BIDS ON INSTALLATION OF 6" WATER MAIN AT MUNICIPAL GOLF COURSE 2-51

Director of Public Works Ray reported on the 3 bids received for the installation of 6" water main at Municipal Golf Course, which had been opened Feb. 3. The low offer was by Jess Hogg in the amount of \$3,821.10, which exceeded the engineer's estimate by city forces of \$2,427.50 by 57%.

RESOLUTION NO. 58-32

A RESOLUTION REJECTING ALL BIDS AND AUTHORIZING THE WORK TO BE PERFORMED BY THE CITY FOR THE INSTALLATION OF 6" WATER LINES AT THE MUNICIPAL GOLF COURSE

Introduced by Hammond    Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None    Absent: Anderson

Mr. Ray reported it was planned to do the work during the dates of February 17 and February 28 and action should be taken by the Council to close the Course to play for this period. The Director of Parks and Recreation has suggested, he reported, that the Course could be opened to play on Saturday and Sunday February 22-23, when the workers are not working, which would be in order except for the "golfing hazards".

The danger of additional liability created by permitting the players to play during the installation period was discussed by the Council and it was agreed that it would not present too much of a problem.

RESOLUTION NO. 58-33

A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS AND RECREATION TO CLOSE THE MUNICIPAL GOLF COURSE DURING THE PERIOD OF INSTALLATION OF WATER MAIN

Introduced by Hammond    Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, and Mayor Marks

Noes: None    Absent: Anderson

Mayor Marks suggested that the staff work out the wording on a sign to be posted during the closing of the course, if it was deemed necessary.

APPROVE SPECIFICATIONS AND CALL FOR BIDS FOR STREET LIGHTING MATERIAL 2-95

Specifications for the furnishing of lighting standards were presented by the Director of Public Works. He proposed that the bid opening be set for February 24, 1958 at 2:00 P.M.

RESOLUTION NO. 58-34

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING PENDENT LIGHTING STANDARDS

Introduced by Hammond      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                      Absent: Anderson

37-29



## RESOLUTION NO. 58-36

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$15,000 FROM SPECIAL CAPITAL OUTLAY RESERVE TO APPROPRIATIONS FOR RECONSTRUCTION OF DEL WEBB FIELD

Introduced by Robinson            Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                            Absent: Anderson

HOLD OVER ORDINANCE RELATING TO INTOXICATION 3-05

City Attorney Grimes presented for Council consideration, as requested by Police Chief Bowers, an ordinance which would add a provision to the Municipal Code to prohibit persons from being found in or on an automobile or other vehicle in the state of intoxication. He pointed out that there was no provision in the state law regulating this situation and a number of cities have adopted a provision in this regard.

After a brief Council discussion, it was agreed that the ordinance should be held over until certain questions could be answered by Police Chief Bowers who was unable to be present at this meeting.

APPOINT SIGNATORY OFFICIALS FOR CIVIL DEFENSE DOCUMENTS 3-49

## RESOLUTION NO. 58-37

A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE ASSISTANT CITY MANAGER OF THE CITY OF MODESTO TO SIGN WAREHOUSE ISSUE SHEETS OF THE CALIFORNIA STATE EDUCATIONAL AGENCY FOR SURPLUS PROPERTY AND RESCINDING RESOLUTION NO. 57-314

Introduced by Adams                    Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                            Absent: Anderson

FURTHER CONSIDERATION OF REVISED BUSINESS LICENSE ORDINANCE 3-55

Mayor Marks opened the meeting for further discussion of the proposed revised business license ordinance and the recommendations in the report of the Citizens Committee. He pointed out that any further revisions of the ordinance would be a matter of policy to be cleared by the Council. He assured the members of the audience that no final action would be taken at this meeting and they would be given another opportunity to consider the ordinance after it was prepared in final form for Council action. He reviewed the background on the ordinance which was being considered on the basis of equity so that each and every person would be paying his share of the business license tax and to clear the administrative problems involved with the existing regulations.

The City Manager briefed the recommendations of the Citizens Committee, a copy of which is on file with the records of this meeting and marked exhibit "C". He reported that some of the recommendations made by the committee were 1) the elimination of the personal property tax credit, because of inequities and difficulty of administration, particularly now since the County collects the personal property tax, 2) that many of the special licenses now in existence be included in the general provision, 3) that the definition of gross receipts be made clear. The Committee considered different methods of applying the business license tax, 1) the employee basis, and rejected it on the basis that it had little relation to volume or profit, etc; 2) for greatest equity, the

license should be levied on net profit but was not recommended because of difficulty in administration. He listed some of the changes and proposals made in the proposed ordinance.

### Professional and Service Group

Mrs. Bernice Rader, representing the Stanislaus County Branch of the Music Teacher's Association, filed a protest to the proposed ordinance, a copy of which is on file.

The Council discussed the question of the home occupation group of teachers.

### Retailers, Contractors

Emmett Crandall, representing the farm equipment dealers, spoke in opposition to the elimination of the personal property tax credit. He considered that it would increase his company's taxes approximately 30%.

Gene Malin, representing the Modesto Motor Car Dealers Association, filed a statement with the City Clerk suggesting that the personal property tax credit be eliminated, and that reclassification of businesses on the basis that recognizes the low gross price margin of certain types of operations be considered. Mr. Malin stated that the Association urged the Council to give serious consideration to the adoption of an ordinance along the lines of the City of Merced.

Mayor Marks reported on the findings of the Committee on the possibility of classifying businesses based on gross profits, "that a survey of gross profit for all businesses in Modesto would be extremely time-consuming and the results of such a survey would be questionable. The lack of accurate available information on gross profits for businesses seems to indicate that this approach does not offer the solution to the business license question".

P. Arnold Anderson, representing the Municipal License Tax, <sup>Ass'n.</sup> considered that the Motor Car Dealers would not want a "net profit" basis of tax. He considered that the method used by the City of Merced, basing the license on the gross profits, would be a good suggestion. He stated his organization was very much in favor of revising the ordinance to eliminate the personal property tax credit.

### Brokers

No comments were made.

### Public Utilities

Leslie Carbert, representing the Pacific Gas & Electric Company, offered no objections to the proposed revised ordinance but asked that the definition of "public utility" be clarified.

City Attorney Grimes pointed out that this question was being raised by the P.G. & E. to determine if the ordinance would require the Modesto Irrigation District to pay a franchise fee. After this question was first raised by the P. G. & E. in the previous discussion, he stated, an investigation of the state law had been made by the M.I.D. Counsel, as well as himself, and these investigations led to the conclusion that if the public utilities are to be included in the ordinance, that the legality of including the M.I.D. is questionable.

Mr. Carbert reiterated that "the company was in favor of any revision of the business license ordinance which would provide greater equities.

Equity has its greatest significance in areas of competition". He asked that the Council consider this particular section of the ordinance in the same light as it was considering the rest of the ordinance --namely-- the application of those principles of equity which should be the basis of any business license tax ordinance.

### Wholesalers, Manufacturers

P. Arnold Anderson, stating he was representing wholesalers, spoke on principles of operation throughout the state. He asked that provisions be made in the ordinance to prevent double taxation on business which is done in other cities. The amount of money involved, as established by the 1/10 mill rate, he stated, is not serious but in the future years the rates might be doubled. He reported that there was a question now being litigated in the Los Angeles Courts on the right of a city to levy a tax on selling activities conducted outside the city limits. He stated that if it was planned to increase the wholesale license fee that other methods be considered first. He cited examples of other cities where the mill license fee had been rescinded in favor of an average number of employees basis. He considered that this plan would be simple to enforce and would be more equitable as it would prevent double taxation on business done outside the city. He asked for permission to present some specific suggestions for the wholesale concerns he represented at the next hearing on the ordinance.

Mayor Marks assured him that his suggestions would be considered by the Council.

### Wholesale trucks

Mr. Anderson pointed out that the recommendation of the Citizens Committee that the fee for wholesale trucks be increased from \$20 to \$50 had not changed. He objected to this increase because it would be out of line with other cities, and might bring an increased fee in these cities. He suggested that the rate be compromised on the basis of \$30 for the first truck and \$15 for each additional.

Mr. Anderson reported that he would write a letter to the Council, prior to the next public hearing, and offer certain suggestions to be considered for the ordinance, relating to the dairy business and distribution.

### Processors

Herbert Buxton, representing the California Frozen Food Company, objected to any increase in taxes for the food industry on the grounds that this type of industry was competing against those outside the city and should be given the greatest consideration due to the payrolls created for the community. He claimed the proposed change in the ordinance would increase his costs 30 times, and would create an inequity. Most of the products of his company were sold out of the State of California bringing in new money for the community and increased payrolls, which would be spent locally. He considered that food industries should be placed on a flat fee license since the margin of profit was very limited. It would be fairer to any new industries coming into the city to know that the license will not be based on volume of production but will be on a flat fee basis.

Mayor Marks pointed out that the rate proposed was in effect a flat rate basis. He stated that the proposed rate might be too high and the Council members feel that if this created any hardship in the industry, consideration could be given to decreasing the rate, because the total amount to be raised by 164 wholesalers, manufacturers and processors was only \$14,000. He stated that the Council realizes that the base of this community is agricultural and it is not intended to work any hardships with the proposed ordinance.

Mr. Buxton stated that for the interest of the City of Modesto if more food industries could be encouraged to locate in the area, more money would be available for expenditure in the community for retail purchases, professional, etc, purposes. He pointed out that there were only 2 processing plants in the city limits during the past number of years and that all the new plants were being located outside the city limits. This point should be considered in setting the license fee.

Mayor Marks pointed out the reason why they had not been located within the city during the past years was that there was no location within the city limits or the sewage facilities were not available until the last couple of years. He asked Mr. Buxton---what the city could do that has not yet been done to encourage this growth.

Mr. Buxton stated that it was not all on account of the city or the city management that the plants were not locating within the city limits. Nevertheless the sewer costs are greater in Modesto. The cost of administration and supervision of the sewage disposal were greater; the increase of taxes versus the plant outside; the difference in fire insurance rates is not a great deal as far as his plant was concerned.

Mayor Marks assured Mr. Buxton that the Council would examine the rate structure proposed very thoroughly and was open to any suggestions to make the city a better place in which to operate offered by the processors. He pointed out that sewer rates would be increasing in other cities as sewage plants were being built. He suggested the City bring the city's survey of sewage rates up to date so that sewage costs could be compared with other cities which operated sewage plants so that the whole industry could be informed on these costs.

Horace Button, representing Floden-Button Processing Company, assured the Council the company wished to pay its just share of taxes but disliked the proposed method for a graduated scale of license fee. He advocated a flat rate fee, so that in the future when a new Council was in office the processors would be better protected against any increase in mill rate. He suggested a flat rate ranging between \$100 to \$250.

Director of Finance Bird answered a question from Mayor Marks---why did the committee use the 1/10th of a mill and what relevancy it had---it was only used as a basis to determine what the flat rate fee would be.

The City Manager stated that the committee had not intended to have the 1/10th mill as a rate basis in the ordinance but the bracket of rates was based on an average and was used for an informative guide.

Mayor Marks assured Mr. Button that the Council would do everything possible to "keep the life blood of the community flowing", and it would be done in an equitable manner for all businesses concerned. He commended the fine work of the committee on the revised ordinance and pointed out that the final decisions would be made by the Council.

Councilman Hammond stated "in answer to all the wholesalers, manufacturers and processors, that it was the intent of the Committee to consider that these industries seeking locations were interested in the physical plant that the City of Modesto was able to provide, type and kind of people coming into the community to provide good payroll material and workers, school situation and many other factors which make a good community. The committee recognized that while the wholesalers, etc, were the mainspring of the community, they also were interested in the physical plant and facilities which make the community. The Committee considered that these business concerns should participate to a lesser degree than other industries such as service industries, retailers, etc."

Mr. Bird answered the questions raised by Don Schmidt, new owner of the American Transit Mix Co., Inc., on the type of licenses he would be required to secure, and that he would be required to pay on sales inside and outside the city.

Cecil Jones, representing the Stanislaus Canning Co., suggested that some differential be made between wholesalers----those who sell and those who are processors.

Councilman Hammond suggested, to which the Council concurred, that the next public discussion on the ordinance be set for 4:35 P.M. February 19, in order to give the staff time to make a study and a report on various questions raised at this meeting.

City Attorney Grimes answered a question raised by Councilman Hammond--the Council cannot determine whether music teachers are "cultural or educational" but could define what constitutes business and anything which constitutes business will be classed in that category. The Council also has the alternative to set a minimum amount of gross receipts in the ordinance.

Councilman Hammond asked that the implement dealers file a report with some precise statements as to how the proposed elimination of the personal property tax would effect their business. A report also should be submitted by the Motor car dealers as to how the proposed change would effect their business as compared to the present ordinance. He considered that these reports could be an average sort of report which could be used as a source of information for the Council.

Councilman Hammond considered that as long as the P.G. & E. was the only public utility presently paying a franchise tax, the Council should consider the possibility of granting a credit for the mill license fee paid on the franchise tax payments in order to achieve equity. He asked that a report be submitted on this matter.

Councilman Hammond asked that a report be made on the suggestion that the number of personnel in a plant be used as a basis to determine the license fee.

Councilman Hammond asked the staff to obtain information on the license fees paid in other cities in Stanislaus County by the outside trucks. He considered that the city should be in "an average position and not in a leading position as far as taxing incoming trucks"

At the suggestion of the City Manager the Council agreed that 1) the term 1/10th mill for the wholesalers, processors would not be included in the ordinance, 2) that it was informally agreed, that the outside truck fee should be established at \$30 instead of \$50.

AUTHORIZE TRANSFER FOR CAR REPLACEMENT 11-95

RESOLUTION NO. 58-38

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$3,436. FROM PUBLIC WORKS SERVICE DIVISION EQUIPMENT RENTAL CREDITS TO PUBLIC WORKS-SERVICE DIVISION FOR THE PURCHASE OF AUTOMOTIVE EQUIPMENT

Introduced by Robinson                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

SET DATE FOR HEARING ON APPLICATION OF GEORGE AND GLADYS BUMGARDNER FOR FRANCHISE TO OPERATE A WATER SYSTEM IN THE CITY 11-97

Pursuant to referring the application of George and Gladys Bumgardner for a franchise to operate the Bumgardner Water Company in the city, to the City Manager, he filed a report at this time recommending the granting of the franchise for a term of 20 years. The City Attorney outlined the

procedure granting a franchise, as set forth in the Municipal Code, and the terms and provisions proposed in the franchise ordinance.

**RESOLUTION NO. 58-39**

**A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER THE APPLICATION OF GEORGE BUMGARDNER AND GLADYS BUMGARDNER FOR A FRANCHISE TO OPERATE A WATER SYSTEM WITHIN THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR A HEARING ON SAID APPLICATION**

Introduced by Mayor Marks                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None    Absent: Anderson

The time set for the hearing was the 26th day of February, 1958, at the hour of 8:00 P.M.

Councilman Merrill asked if Mr. Bumgardner would be required, if the franchise was granted, to comply to the city standards for size of water mains for any new installation.

The City Attorney considered that the city could not invade the jurisdiction of the Public Utilities Commission in respect to the regulation of public utilities.

Mayor Marks suggested that the Bumgardners be notified that the City would like to see the city standards adhered to in any new installations because the question would come up at the hearing.

**REQUEST BY RED TOP TAXI COMPANY FOR RELEASE OF TAXI STAND AND FOR CHANGE IN ANOTHER TAXI STAND 12-40**

The City Manager reported the Red Top Taxi Company was now requesting that the stand in front of Penney's be discontinued and they be permitted to move their cab in front of the Grayson Store loading zone after 6:00 P.M.

**MOTION**

That the City Attorney be instructed to prepare the necessary documents.

Moved by Merrill                      Seconded by Adams                      Unanimously carried

**AUTHORIZE YIELD RIGHT OF WAY SIGNS ON HADDON AT ROSINA 12-52**

**RESOLUTION NO. 58-40**

**A RESOLUTION AUTHORIZING THE ERECTION OF YIELD RIGHT OF WAY SIGNS ON HADDON AVENUE AT ITS INTERSECTION WITH ROSINA AVENUE IN THE CITY OF MODESTO**

Introduced by Robinson                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None    Absent: Anderson

**ESTABLISH STOP SIGNS ON VARIOUS STREETS**

**RESOLUTION NO. 58-41**

**A RESOLUTION ESTABLISHING STOP SIGNS ON H STREET, I STREET AND K STREET**

AT THEIR INTERSECTION WITH TENTH STREET, ON I STREET AT ITS INTERSECTION WITH TENTH STREET, ON I STREET AT ITS INTERSECTION WITH ELEVENTH STREET, ON CHADWICK COURT, LOCKE ROAD AND CHEHALEM DRIVE AT THEIR INTERSECTION WITH COFFEE ROAD IN THE CITY OF MODESTO

Introduced by Robinson                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

YIELD RIGHT OF WAY SIGNS ON CERTAIN STREETS AT INTERSECTIONS WITH KEARNEY AVENUE

RESOLUTION NO. 58-42

A RESOLUTION AUTHORIZING THE ERECTION OF YIELD RIGHT OF WAY SIGNS ON CERTAIN STREETS AT THEIR INTERSECTION WITH KEARNEY AVENUE IN THE CITY OF MODESTO

Introduced by Merrill                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

ESTABLISH STOP SIGNS ON LEONARD AND KEARNEY AVENUE

RESOLUTION NO. 58-43

A RESOLUTION ESTABLISHING STOP SIGNS ON LEONARD AVENUE AT ITS INTERSECTION WITH KEARNEY AVENUE IN THE CITY OF MODESTO

Introduced by Arata                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

RESOLUTION ESTABLISHING STOP SIGNS ON J AT TENTH STREET

RESOLUTION NO. 58-44

A RESOLUTION ESTABLISHING STOP SIGNS ON J STREET AT ITS INTERSECTION WITH TENTH STREET IN THE CITY OF MODESTO

Introduced by Robinson                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

RESCIND DIAGONAL PARKING ON SEVENTEENTH STREET BETWEEN G AND H STREETS

RESOLUTION NO. 58-45

A RESOLUTION RESCINDING RESOLUTION NO. 9877-N.S. WHICH ESTABLISHED DIAGONAL PARKING ON SEVENTEENTH STREET BETWEEN G STREET AND H STREET IN THE CITY OF MODESTO

Introduced by Adams                      Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

HOLD OVER CONSIDERATION OF TRANSFER OF FUNDS RELATING TO DAMAGE TO STREET TO PAY STANDARD MATERIALS INC. 12-95

This matter was ordered held over for further clearance by the City Attorney and Director of Finance.

APPROVE PLANS AND SPECIFICATIONS FOR INSTALLATION OF WATER LINES AND CALL FOR BIDS 12-103

Plans and Specifications for the installation of water lines on Maze Boulevard, between Maze Court and west side of M.I.D. Lateral No. 5 and Beard Street between B Street and Ninth Street, were presented for Council approval. The Director of Public Works recommended that the date for the opening of the bids be set for February 17 at 2:00 P.M.

RESOLUTION NO. 58-46

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF WATER MAINS ON MAZE BOULEVARD AND BEARD STREET IN THE CITY OF MODESTO

Introduced by Merrill                      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

APPLICATION TO OPERATE A WATER SYSTEM WITHIN THE CITY FILED BY DEL ESTE WATER COMPANY 12-110

MOTION

That the application of the Del Este Water Company to operate a water system within the City of Modesto be referred to the City Manager for a report.

Moved by Merrill                      Seconded by Arata                      Unanimously carried

AUTHORIZE APPROPRIATION TRANSFER RELATING TO PAYMENT OF SALE TAX 12-115

RESOLUTION NO. 58-47

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$1040 FROM GENERAL RESERVE TO MISCELLANEOUS UNCLASSIFIED FOR PAYMENT OF SALES TAX FOR 1957 CALENDAR YEAR UNDER THE BRADLEY-BURNS ACT

Introduced by Arata                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

ACQUISITION OF SURPLUS PROPERTY 13-03

The City Manager reported that the City had arranged to acquire through the State Educational Agency for Surplus Property, a 1600 gallon water tank truck at a cost of \$175 to be used for street flushing and watering of trees, and a 2½ ton flatbed truck for \$150. Both would require some repairs but they were good buys.

RESOLUTION NO. 58-48

A RESOLUTION AUTHORIZING CITY MANAGER ROSS MILLER TO EXECUTE WAREHOUSE ISSUE SHEET NO. R3065 RELATING TO THE PURCHASE OF 1941 TANK TRUCK BY THE CITY OF MODESTO

2-5-58                      Page 12

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

RESOLUTION NO. 58-51

A RESOLUTION AUTHORIZING CITY MANAGER ROSS MILLER TO EXECUTE WAREHOUSE ISSUE/ SHEET  
NO. R3074 RELATING TO THE PURCHASE OF 1951 TRUCK BY THE CITY OF MODESTO

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

APPROVE RIGHT OF WAY CONTRACTS FOR WIDENING OF McHENRY AVENUE 13-12

RESOLUTION NO. 58-49

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Robinson                  Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Anderson

The City Manager listed the names of the 18 property owners who had deeded the rights of way. He reported that the project was proceeding in a satisfactory manner and over 50% of the properties had been deeded. He stated that the State had inquired when the money would be needed. The Council agreed that the City Manager should advise the State that it would be cleared in time for this year's budget.

DENY REQUEST OF MRS. W. E. ROWLEY FOR AMENDMENT TO MUNICIPAL CODE RELATING TO SOLICITATION

A letter from Mrs. W. E. Rowley, 928-A East F Street, Oakdale, was read requesting that Section 4-7.401 of the Municipal Code relating to solicitors be amended to exempt the selling of the non-profit educational publications of Technocracy.

The City Manager recommended that no change be made in the Code.

MOTION

That the request be denied.

Moved by Merrill, Seconded by Robinson Unanimously carried

REPORT ON COSTS OF INSTALLATION OF WATER LINE IN GREGORY GARDENS #2 BY CITY FORCES 13-45

The City Manager reported that the amount estimated for the installation of water lines in Gregory Gardens #2 by city forces was \$2,001.85, the low bid offer was \$2,644.10, the actual cost of the work was \$1843.11.

PROGRESS REPORT ON CITY HALL PLANS 13-47

The City Manager reported that sketch preliminary plans of the City

Hall had been returned by Architect Milton Pfleuger after making changes suggested by the staff. These changes have been checked again by the staff and will be returned to the Architect for final preparation of the preliminary plans.

The City Manager reported that under the contract the city was responsible for soil testing, boring and analysis of the foundations. An offer from Charles H. Lee, Consulting Engineer in San Francisco, for doing this work in the amount of \$2,930, has been received.

RESOLUTION NO. 58-50

A RESOLUTION APPROVING THE EXECUTION OF AN AGREEMENT BY THE CITY MANAGER WITH CHARLES H. LEE FOR FOUNDATION EXPLORATION WORK AND REPORT AT THE SITE OF THE MODESTO CITY HALL AS PROPOSED IN LETTER OF JANUARY 28, 1958 TO ARCHITECT MILTON T. PFLEUGER

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson

APPROVE LOCATION OF JUNIOR RIFLE RANGE AT AIRPORT 13-73

The City Manager displayed a sketch showing the proposed location of the Junior Rifle Range at the Modesto City-County Airport, at the edge of the hill and directly across from Hillside Drive, with precise location and arrangement to be worked out.

MOTION

That the location of the rifle range is generally agreeable with the Council and the staff is authorized to proceed on this basis.

Moved by Merrill                      Seconded by Hammond                      Unanimously carried

REPORT ON WIDTH OF STRUCTURES ACROSS FREEWAY AT H, I, K AND L STREETS 13-85

The City Manager reported that the staff had discussed the width of structures across freeway at H, I, K and L Streets and had always informed the Council that they would be the same width as now existing. In answer to a question, he pointed out that the level of these streets at grade crossing had not yet been assured formally. The Council considered that the grade would be a crucial problem and should be cleared with the state since the design was now in progress.

The City Manager reported that the staff was checking directly with the state to determine the reason why the grade separation question was not being cleared. The Stockton office of the Division of Highways, he stated, has been contacted and will check with the head office in Sacramento.

APPOINTMENTS ON BOARDS

The City Manager suggested that the Council members be ready to submit names of persons to be appointed to the vacancies on the Planning Commission and the new Board of Electricians Examiners at the Executive session scheduled for the next Council meeting.

CLEAR ATTENDANCE OF CITY MANAGER AND ASSISTANT CITY MANAGER TO LEAGUE OF CALIFORNIA CONFERENCE OF CITY MANAGERS 13-110

The City Manager reported that if there were any matters on the agenda

which would require the attendance of the Assistant City Manager at the next Council meeting, he would arrange to be present, but if not, he planned to attend the City Managers' conference, as previously approved by the Council.

ADJOURNMENT

MOTION

That the meeting be adjourned until 7:00 P.M. next Thursday, February 13 for an executive session to discuss the qualifications of appointments to the Planning Commission and Board of Electricians Examiners

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:

  
Rex E. Gallus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Robinson, and Mayor Marks

Absent: None

The pledge of allegiance to the flag was given by all those present.

Rev. Leo T. Borbe gave the invocation.

City Manager Ross Miller and Assistant City Manager Bill Masonheimer being absent from the city, City Attorney Allen Grimes acted in the City Manager's place.

REQUEST BY UNITED AIR LINES FOR APPROVAL FOR PASSENGER FARE INCREASE 1-45

R. J. Schatz, local manager of the United Air Lines, requested the Council to urge the Public Utilities Commission to expedite its hearing on the Company's application (CAB docket 8008) for a general passenger fare increase, and to recommend the granting of the increase requested.

MOTION

That the Mayor be authorized to write a letter to the Public Utilities Commission urging early action on the United Air Lines' application for a general passenger fare increase.

Moved by Robinson      Seconded by Arata      Unanimously carried

PETITION REQUESTING IMPROVEMENT PARK AREA 1-115

A petition with 35 names, was filed by property owners surrounding the triangular park area bounded by Ashby Avenue, Muir Road, and Oxford Way asking that the city install curbs and gutters around the park. They suggested that at the time the park is landscaped, the interior of the park be left open to provide play area for children. A letter signed by Fred S. Curtis accompanied the petition urging favorable consideration for the improvements, to prevent further vandalism by teenagers driving across the lawn, to minimize maintenance cost, <sup>and</sup> damage to the oiled street area caused by standing water.

Fred Curtis appeared in person and spoke briefly on the situation. He pointed out that the standing water created an excellent breeding place for mosquitoes.

MOTION

That the petition be referred to the staff for investigation and report to the Council.

Moved by Merrill      Seconded by Robinson      Unanimously carried

Councilman Hammond suggested that the staff also report on the curbs and gutters on the opposite side of the streets.

LETTER FROM ASSEMBLYMAN ALLEN RE: ASSEMBLY JOINT RESOLUTION NO. 4 PERTAINING TO CONSTRUCTION OF POWER FACILITIES ON THE TRINITY PROJECT 2-40

The letter was read and ordered filed.

ORDINANCE AMENDING MUNICIPAL CODE SETTING STANDBY RATES FOR INDUSTRIAL SEWER CHARGES 2-60

## ORDINANCE NO. 224-C.S. entitled

"AN ORDINANCE AMENDING SUB-SECTION (1) OF SECTION 5-6.206, ARTICLE 2 OF CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO SEWER SERVICE CHARGES"

was introduced and ordered printed and published as required by the Charter.

Moved by Adams                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                              Absent: None

APPOINTMENTS TO PLANNING COMMISSION AND REPORT ON APPOINTMENTS TO BOARD OF ELECTRICIAN EXAMINERS 2-80

Councilman Adams reported on the difficulties involved in securing persons to serve on the new Board of Electrician Examiners for the following reasons: 1) it would preclude doing business with the city; 2) many of the eligible persons resided outside the city; and 3) any Journeyman members might be docked for time lost attending meetings. He recommended that the appointments be postponed until 7:00 P.M. February 26, so that the Council could again meet in Executive session to consider the appointments.

Bob Boland, 2209 Rivera Drive, representing the non-union electrical contractors, asked that they be equally represented on the Board--one Master Electrician and one Journeyman.

The Council asked Mr. Boland to work with Councilman Adams to suggest persons eligible for appointment.

## RESOLUTION NO. 58-52

A RESOLUTION APPOINTING HEIDI L. WARNER AND DON L. MEYERS AND REAPPOINTING EUGENE R. SWARTLING MEMBERS OF THE MODESTO CITY PLANNING COMMISSION

Introduced by Adams                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                              Absent: None

The terms of Mr. Swartling and Mr. Meyers expire January 1, 1962. Mrs. Warner was named to fill out the unexpired term of Mr. Merrill which expires on January 1, 1961.

ESTABLISH TAXICAB STANDS ON WEST SIDE OF TENTH STREET FOR RED TOP TAXI COMPANY 4-05

As directed by the Council, the City Attorney presented for Council consideration, a resolution establishing a taxicab stand on west side of Tenth Street, at J Street between the hours of 6 A.M. and 6 P.M. and on another location in front of this stand between the hours of 6 P.M. and 6 A.M.

## RESOLUTION NO. 58-53

A RESOLUTION ESTABLISHING TAXICAB STANDS ON WEST SIDE OF TENTH STREET BETWEEN J AND K STREETS IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 57-390 AND RESOLUTION NO. 54-262

Introduced by Merrill                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: None

REQUEST BY GILTON BROTHERS FOR LICENSE TO COLLECT SWILL 4-10

An application was filed by Gilton Bros. Hog Ranch, Rt. 3, Box 1337 Oakdale, to collect swill in the City of Modesto. The City Attorney reported that under the provisions of Sec. 5-5.15 of the Municipal Code, the application should be referred to the City Manager for investigation and report. In order to save time, he stated, it would be in order to set the date for the required public hearing at this time. The time agreed for the hearing was February 26 at 8:15 P.M.

## MOTION

That the application be referred to the City Manager for investigation and report at the Council meeting of February 26.

Moved by Anderson      Seconded by Robinson      Unanimously carried

## RESOLUTION NO. 58-54

A RESOLUTION FIXING THE TIME AND PLACE FOR A PUBLIC HEARING IN THE MATTER OF GRANTING A LICENSE TO LEROY GILTON FOR THE COLLECTION OF SWILL IN THE CITY OF MODESTO

Introduced by Robinson                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: None

APPROVE LEASE AGREEMENT FOR RENTAL OF AIRPORT PROPERTY TO NAKAGAWA FARMS 4-20

The City Attorney presented for Council consideration an ordinance approving a lease agreement for the rental of 40 acres of airport land to the Nakagawa Farms for a term of one year commencing January 1, 1958. He pointed out that the ordinance would terminate the existing lease for 55 acres so that the 15 acres could be used for the extension of the runway now under construction. The lessees will be entitled to a refund of \$4590 for advance rental paid, less \$2480 for the new lease, leaving an amount due Nakagawa Farms of \$2110

## ORDINANCE NO. 225-C.S. entitled

"AN ORDINANCE LEASING CERTAIN CITY OWNED AIRPORT PROPERTY TO NAKAGAWA FARMS AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH, TERMINATING AN EXISTING LEASE RELATING THERETO, AND REPEALING ORDINANCE NO. 55-C.S."

Introduced by Anderson                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: None

The Director of Public Works Ray recommended the approval of the lease.

HOLD OVER PETITION FOR ANNEXATION OF PARADISE CENTER ADDITION 4-55

The City Attorney stated that the report did not arrive from the County Boundary Commission and the petition had not been filed.

REPORT ON ACTIVE COUNCIL COMMITTEES AND ASSIGNMENTS 4-60

Pursuant to Council direction the City Clerk filed a report listing the Council Committees and assignments which had been approved at the Council meeting of January 22 and the committees and assignments which had been discharged.

Councilman Robinson asked to be relieved of his assignment as Council representative on the Stanislaus City-County Committee since he was compelled to be absent from the city on Mondays, the usual meeting date of the Committee.

## MOTION

That Vice Mayor Hammond be appointed Council representative on the Stanislaus City-County Committee and relieving Councilman Robinson from the assignment.

Moved by Merrill Seconded by Robinson Unanimously carried

It was generally agreed by the Council that future appointments be made on the basis of equity of work load on existing committees and assignments.

REPORT ON COUNCIL DISCUSSIONS AND PROPOSED USE OF MUNICIPAL GOLF COURSE UPON COMPLETION OF NEW DRYDEN PARK MUNICIPAL GOLF COURSE 4-90

Copies of a report prepared by the City Manager and City Clerk, as directed by the Council, on "Summary of Prior Discussion and reports on use for recreational purposes of site of existing 9 hole golf course" were distributed.

Councilman Arata recommended that the decision of the future use of the Municipal Golf Course be deferred until the new Dryden Park Municipal Golf Course was completed. The Council members in office at that time should make the decision based on all facts available for the good of the community and its citizens, he stated.

Director of Parks and Recreation Lloyd Lowrey stated that there were no immediate problems if this course was followed but it would forestall any planning which could be gotten underway.

Mayor Marks stated that his position on the matter was 1) when and not until this community reaches a population of over 100,000 will there be any use for two 18 hole courses and one 9 hole course, 2) when this time does arrive, the new nine hole course and new 18 hole course should be located where the people will have ready access. The original plans previously discussed called for the location of a course out Scenic Drive. He considered that the Municipal Golf Course area should be used for a beautiful regional park.

Councilman Merrill stated that Modesto should stay ahead on its golfing facilities by retaining the present 9 hole course, that the cost of developing the 9 hole course as a regional park should be explored before any change was made; that if the city afforded sufficient facilities out-of-city players would avail themselves of the opportunity of playing here instead of going to other cities; that students could use the 9 hole course at all times; and that the city should operate the 18 hole course one year

before any change was made in the 9 hole course.

Mr. Lowrey reported that it would be necessary to rebuild four of the greens in the present course within the next two years. The replacement of water lines would have to be made regardless of what use was made of the course, he stated.

Mayor Marks stated that he would be opposed to any major expenditure on the course which could not be used in a regional park.

John Feltes stated that the future use of the Municipal Golf Course should be for the greatest good for the greatest number. The number of golfers as compared to non-golfers and the available facilities should be taken into consideration when the final decision is made. He suggested that the Council in office consider the possibility of holding an election to decide the issue.

PRESENTATION OF FINANCIAL STATEMENT FOR MONTH OF JANUARY, 1958

Copies of the Financial Statement for the month of January, 1958 were distributed.

ADJOURNMENT


MOTION

That the Council meeting now in session be adjourned.

Moved by Anderson      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 8:50 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

Adjourned Council Meeting

February 13, 1958

The Council of the City of Modesto met in adjourned session, having adjourned from the Council meeting of February 5, 1958, at 7:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.


The City Clerk called the roll and there were

Present: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Absent: None

By unanimous consent the Council held an executive session to consider names suggested by members for appointments to the three existing vacancies on the Planning Commission and the new Board of Electrician Examiners.

ATTEST:

  
Rex E. Gailfus, City Clerk

Council Meeting  
February 19, 1958

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Robinson and Mayor Marks

Absent: Councilmen: Anderson, Adams, Merrill

Councilman Merrill arrived at 4:06 P.M.  
Councilman Anderson arrived at 4:07 P.M.  
Councilman Adams arrived at 4:08 P.M.

The pledge of allegiance to the flag was given by all those present.

A few moments silent prayer were observed.

Mayor Marks welcomed students from the Downey High School Government in Action class and their instructor, Wayne Baldrige.

REFER PETITION FOR ANNEXATION OF PARADISE CENTER ADDITION TO THE PLANNING COMMISSION 1-25

RESOLUTION NO. 58-55

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS PARADISE CENTER ADDITION

Introduced by Arata

Seconded by Hammond

Ayes: Adams, Arata, Anderson, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: None

LETTER FROM K. V. BROADWELL, COUNTY ASSESSOR RE: ASSESSING OF AGRICULTURAL LAND 1-30

With the unanimous consent of the Council, Mayor Marks was granted permission to present a matter not placed on the agenda---1) letter from County Assessor K. V. Broadwell relating to assessing of agricultural land and 2) request for Council authorization to write a letter of commendation to retiring Councilman Uttendorfer of the City of Turlock.

The letter from Mr. Broadwell was in reply to a letter from Mayor Marks relative to the Council's stand on the assessment of agricultural land. He advised that his office was governed by the State Constitution and statutes and it is always his aim to treat all types of property in the same manner. Copies of the Attorney General's opinions applying to the situation were enclosed. The Clerk was directed to send copies of the opinions to the Council members and to the City Attorney for a report.

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## MOTION

That Mayor Marks be authorized on behalf of the Council to write a letter of commendation to retiring Councilman Ernie Uttendorfer of the City of Turlock, for services rendered to the City of Turlock and other county cities.

Moved by Hammond                      Seconded by Robinson      Unanimously carried

REPORT ON CALL FOR BIDS FOR INSTALLATION OF WATER LINES 2-16

The City Manager reported that no bids were received on the installation of water lines on Maze Boulevard and Beard Street which had been called for February 17 at 2 P.M. He recommended that the staff be authorized to proceed with the installation using regular city forces. The engineer's estimate for the work is \$2,079.60.

The City Attorney stated that Section 1307 of the City Charter provides that the Council may "declare and determine that, in its opinion, based on estimates approved by the City Manager the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least five affirmative votes may proceed to have said work done in the manner stated, without further observance of the provisions of this section".

## RESOLUTION NO. 58-56

A RESOLUTION AUTHORIZING THE INSTALLATION OF WATER MAINS ON MAZE BOULEVARD AND BEARD STREET BY CITY FORCES AS PROVIDED BY SECTION 1307 OF THE CHARTER OF THE CITY OF MODESTO

Introduced by Anderson                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: None

DISCUSSION ON ADOPTION OF ORDINANCE RELATING TO INTOXICATION 2-30

Police Chief Bowers reported on his purpose for proposing the adoption of an ordinance relating to intoxication "in or on any motor vehicle". He pointed out that there were existing laws for the drunk driver and the person intoxicated in a public place, but no regulations for the "middle level", where motorists are in fact drunk but the police officers cannot prove driving. He cited four incidents which had occurred in the City during the month of December, 1957, where drunk drivers had been found by the Police in the middle of street intersections, passed out over the wheel of their cars. These persons, under the existing laws, can only be charged with "simple drunk" and many times they are turned out of jail, when sober, without fine, or if they do go to court they are allowed to be released on a simple drunk bail.

If the proposed ordinance is adopted, he stated, the court will be asked to establish a bail commensurate with this type of violation.

Chief Bowers answered questions raised by the Council members;

- 1- While it would be possible to arrest a drunk passenger in a car or taxi under the ordinance, the intent of the law is the governing factor. It is now possible under the existing laws to arrest such a person under the simple drunk law, but it is not done.
- 2- The proposed regulations are not new since many other cities in the state have had them in existence for many years. The County of Stanislaus

does not presently have these regulations. The State does not have a comparable law but there isn't the need on the state level as there is in a highly populated city area.

- 3- The ordinance could be made more restrictive in wording but it would not be as desirable as the general wording now used. It has been the experience with this law that if an attempt is made to pinpoint it there are so many circumstances where it should apply that it is necessary eventually to come back to the generalization "in or on a car".
- 4- He pointed out, on questions raised by the Council on administration, that the simple drunk law is now administered in a fair and just way. Many more things could be done with the simple drunk law than is now done and the same would apply with this law. It is not intended to arrest a person who is an intoxicated passenger going home in a taxi.
- 5- What we hope to do is to have the court raise the limit of bail to a higher level than the simple drunk law and to have this considered a more serious violation, which it truly is. It will have no effect whatever on what the Judge decides to do and no effect on the limit of penalty of the law because that is fixed.

Councilman Hammond considered that the adoption of this ordinance might create some problems while trying to solve others. He considered that it was the duty of the Council to thoroughly examine the needs for legislation as to their relative importance since it was possible to "stack laws on the books to the point where people no longer observe them if you have too many".

Councilman Arata considered that if the city adopted this law it should also be adopted by the county as well. He recommended that a report be made on the number of cities in the state that had this law in effect.

At the request of Councilman Adams, the proposed ordinance was read by the City Attorney.

The City Manager pointed out that the ordinance would permit the police, in an area where it is serious from the standpoint of public safety, to make arrests under a more serious charge.

Councilman Arata considered that the "drag drivers" on 10th and 11th street should be charged with reckless driving since they were driving between 60 to 65 miles per hour, 3 cars abreast on 11th and 3 abreast on 10th Street. He considered that if these drivers were charged with reckless driving it would tend to stop "dragging".

Police Chief agreed that under the circumstances stated by Councilman Arata that it would be a wilful, wanton, disregard of the laws but under the law the police must prove in court this disregard for life and property. Citations for reckless driving are issued whenever it can be proved in court. He issued an invitation to the Council members to ride in some of the police cars to observe the patrolling of the streets. Unless there is speed reading it is very difficult to obtain a conviction in court. He stated that the radar machine had been set up on both 10th and 11th Streets.

The introduction of an ordinance amending Section 4-2.09 of Chapter 2 of Title IV of the Modesto Municipal Code relating to intoxication was moved by Mayor Marks and seconded by Councilman Adams, but failed of introduction by the following vote:

Ayes: Adams, Robinson and Mayor Marks

Noes: Arata, Anderson, Hammond, Merrill

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Mayor Marks declared that the motion failed to carry.

Councilman Hammond stated that he had voted "no" on the basis that he felt the wording of the ordinance was too general and should be redrafted to make it more specific.

The City Manager stated that because of the seriousness of the existing problem in the city and for the protection of the public, the ordinance should be redrafted so that it could be approved by the Council since there was a need for the legislation. He asked for further guidance by the Council.

Councilman Merrill asked for "more humanity and flexibility in the regulations".

#### MOTION

That a further report be made by the staff on 1) how other cities handle similar cases; 2) submit a list of other cities which have similar ordinances together with copies of their ordinances and 3) ask Sheriff Kelsey to bring this matter up for consideration before the Board of Supervisors to adopt a similar ordinance.

Moved by Hammond      Seconded by Arata      Unanimously carried

#### HEARING ON PROPOSED ANNEXATION OF GREGORY GARDENS NO. 3 ADDITION TO THE CITY OF MODESTO 5-90

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for the public hearing on the proposed annexation of the Gregory Gardens No. 3 Addition to the City of Modesto.

The City Clerk filed a certification that the notice of hearing had been published as required by law; notices had been mailed to each person to whom land within the territory was assessed on January 22; and no written protests had been received.

Mayor Marks asked if there were any oral protests or if anyone wished to made any comments. No comments were made or oral protests filed. The hearing was declared closed by the Mayor.

#### ORDINANCE NO. 226-C.S. entitled

"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE GREGORY GARDENS NO. 3 ADDITION TO THE CITY OF MODESTO"

was adopted and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: None

#### INFORMAL HEARING ON PROPOSED BUSINESS LICENSE ORDINANCE 5-100

Mayor Marks opened the meeting for informal discussion on the proposed business license ordinance.

A letter from the Valley Tractor Company was read protesting that the proposed one mill tax costs would penalize the company too severely in competition with similar firms outside the incorporated area.

- Reports requested by the Council were filed by the City Manager;
- 1- Business License Ordinance Revision (2-17-58)
  - 2- Business License Tax Deducted from Franchise Tax (2-19-58)
  - 3- Proposed Rate for Outside trucks (2-19-58)
  - 4- Resume of Committee work for Business License Revision (2-18-58)

copies of which are on file with the records of this meeting.

Report No. 1 (Business License Ordinance Revision (2-17-58) was read by Mayor Marks.

Emmett Crandall from the Valley Tractor Company disagreed with the premise advocated by Malcolm Davisson, consultant in the field of business licenses, that the number of employees had no relation to the volume of business. He agreed that the license should not be based on a basis of net profit. He reported that the company's annual tax on its store in Merced would be approximately one-third of the tax proposed by the City of Modesto at the 1 mill rate for one quarter of a year. On the basis of employees, the company's annual license would be from \$150 to \$275 instead of \$200 per month as was paid last year. The proposed ordinance with the 1 mill rate would cost the company approximately six times more compared to other cities.

Councilman Hammond asked Mr. Crandall to consider that in these other cities there would be a wide variance in the amount of personal property and real property taxes collected. More license fees might be paid in Modesto, he stated, but the rates for other taxes would be less. He pointed out that the tax structure, many times, was a Council's interpretation as to where the tax costs should be levied. The Council of the City of Modesto has for many years followed the policy of keeping the personal property and real property taxes as low as possible, with the thought in mind to broaden the tax base as widely as possible so that more people participate in the tax base rather than just property owners and people who have money invested in goods. There are many operations in this city where no real property is owned and the personal property inventories are relatively light and they should participate in the operation costs of the City. In making comparisons on license fees paid between various cities, these other factors should be taken into account.

In answer to a question from Mayor Marks, Director of Finance Bird reported that the Citizens' Committee had made a comparison, for the general fund, of business license taxes collected by Modesto as compared to 285 other cities, excluding Los Angeles and San Francisco, and the percentage was 8% for Modesto as compared to 4% for other cities, for property tax collected 25% for Modesto as compared to 41% for other cities.

Richard Lyng, representing Ed. J. Lyng Company, pointed out that in proposing a new ordinance to solve some existing inequities, a new group was being taxed, the wholesalers, manufacturers and processors. Since only \$14,000 is proposed to be collected from these concerns, consideration should be given to eliminating the tax on this type of business entirely so that it could be used as an incentive for other firms to locate within the city limits.

Lee Davies, representing the Pacific Telephone & Telegraph Company, stated the company was not opposed to the business license tax but if it was necessary to set up a system of bookkeeping to separate the income received from the city only, it would be very costly. He asked if a simple estimate could be determined by the Company which would be acceptable to the city for license purposes. Mr. Davies was requested to work with the City Manager to arrive at an equitable method for Council consideration.

Report No. 2 (Business License Tax Deducted from Franchise Tax) was read by the Mayor.

Councilman Hammond suggested that those public utility firms from whom the city collects a franchise tax, be exempt from the business license tax on the basis, specifically as concerns the P.G. & E., this company is already paying a tax for the use of the City streets.

The City Manager pointed out this would be better from an administrative standpoint, but the two matters---business license tax and franchise tax for the use of the public streets for the operation of part of their business. are entirely different.

Mayor Marks considered that concerns doing business in the city should pay for that privilege. He suggested, however, that the rates proposed for wholesalers, processors and manufacturers be split into 3 ranges as follows:

Amount of business	Rate per year
\$200,000. or less	\$10 or \$15 (minimum)
\$200,000. up to \$1,000,000.	\$50
\$1,000,000. up to \$8,000,000.	\$250 (maximum)

Councilman Hammond noted that the report submitted to the Council by the City Manager included a statement that "235 cities in the State were licensing wholesalers and 204 cities licensing manufacturers". This would indicate that they must participate in the expense of the local government. The thing that most concerns them is the technique of writing the provisions of the ordinance, so that they will not be subject to the caprice of every new Council. He considered that the rate proposed by the Citizens Committee would not be excessive and would not place a burden on industry.

Mayor Marks asked the Council members to study the suggestions offered by Councilman Hammond and himself and pointed out that all suggestions would be subject to final consideration by the entire Council.

Councilman Arata recommended that the maximum rate be reduced from \$800 to \$200.

Report No. 3 (Proposed Rate for Outside Trucks) was read by the Mayor.

The City Manager reported that the evidence indicates that the rates previously discussed by the Council were out of line and recommended the basic rate for wholesalers be \$30 per year, payable semi-annually with the tax for each additional truck set at \$15. The Council concurred in this recommendation.

Mayor Marks declared the informal hearing closed.

MOTION

That the next informal hearing on the ordinance be set for 4:30 P.M. March 5, that the Council consider all of the evidence presented and make decisions to enable the staff to draft the ordinance.

Moved by Robinson      Seconded by Arata      Unanimously carried

AUTHORIZE SALE OF WALNUT TREES LOCATED ON THE DRYDEN PARK MUNICIPAL GOLF COURSE SITE 9-20

ORDINANCE NO. 227-C.S. entitled

"AN ORDINANCE AUTHORIZING SALE OF WALNUT TREES LOCATED ON THE DRYDEN PARK

## MUNICIPAL GOLF COURSE SITE IN THE CITY OF MODESTO"

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson                      Seconded by Arata

Ayes: Adams, Arata, Anderson, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

ORDINANCE APPROVING AGREEMENT FOR PURCHASE OF AIRPORT PROPERTY FROM BEARD LAND AND INVESTMENT COMPANY 9-37

ORDINANCE NO. 228-C.S. entitled

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM BEARD LAND AND INVESTMENT COMPANY, A CORPORATION (SUCCESSOR IN INTEREST OF MODESTO TERMINAL COMPANY, A CORPORATION)

Moved by Arata                              Seconded by Merrill

Ayes: Adams, Arata, Anderson, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

HOLD OVER ACCEPTANCE OF NEW FIRE TRUCK 9-55

This item was held over for further check.

APPROVE CLASS SPECIFICATION FOR DIRECTOR OF PARKING AND TRAFFIC 9-66

RESOLUTION NO. 58-57

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

Introduced by Anderson                      Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

The City Manager pointed out that it was necessary to change the position classification plan to include the combined job of Parking and Traffic Director and did not relate to salary.

PLATOON SYSTEM EXPERIMENT ON TENTH STREET 9-110

Ken Cruse from the Traffic Department reported briefly on the experimental system of platoon parking on Tenth Street which was being tried out to enable easier parking of the new longer cars.

REPORT ON SET BACK REQUIREMENTS ON McHENRY AVENUE-REMOVE REVOCABLE PROVISIONS OF PERMIT GRANTED WILSON-EDSEL GARAGE 9-110

The City Manager stated that Resolution 57-345 adopted by the Council on August 14, 1957 granted permission to the Wilson Edsel Garage located on McHenry Avenue to construct a canopy on a revocable basis, since the curb line had not been established. Investigation of the present ordinance will permit the construction of canopies, etc. between the future street line and building line, he reported, and now since the curb line is set on McHenry Avenue, it is recommended that the revocable portion of this resolution be removed.

## RESOLUTION NO. 58-58

A RESOLUTION GRANTING A PERMIT TO C. P. GRISWOLD, GORDON WIGHT, ELMO WILSON AND L. P. HUDELSON FOR CONSTRUCTION ON McHENRY AVENUE

Introduced by Arata                      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

WITHDRAW NEWLY ANNEXEL NORTHEAST ADDITION FROM THE McHENRY DRY CREEK FIRE PROTECTION DISTRICT 10-15

## RESOLUTION NO. 58-59

A RESOLUTION WITHDRAWING CERTAIN DESCRIBED TERRITORY FROM THE McHENRY DRY CREEK FIRE PROTECTION DISTRICT BY REASON OF ITS ANNEXATION TO THE CITY OF MODESTO (NORTHEAST ADDITION)

Introduced by Merrill                      Seconded by Robinson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

ESTABLISH PARKING RATES FOR PARKING LOTS (13th St. and 8th Street) 10-17

## RESOLUTION NO. 58-60

A RESOLUTION ESTABLISHING AND FIXING PARKING RATES AND CHARGES FOR USE OF MUNICIPAL OFF-STREET PARKING FACILITIES IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 57-414

Introduced by Mayor Marks                      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

APPROVE TRANSFER OF FUNDS TO BE USED FOR PAYMENT OF TAXES ON 8TH STREET PARKING LOT 10-24

## RESOLUTION NO. 58-61

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$250 FROM PARKING FUND RESERVE TO TRAFFIC ENGINEERING ACCOUNT NO. 430-57 FOR PAYMENT OF TAXES ON 8TH STREET PARKING LOT

Introduced by Robinson                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: None

REPORT ON PROPOSAL FOR EARLY START ON CITY STREET PROGRAM 10-28

The City Manager reported that since the change in the state law on gasoline tax commitments, it would be possible for the city to start its street program earlier. He recommended, to which the Council concurred, that the staff present specific proposals for this year's street program for Council approval in order to assure completion of the entire work during the spring and summer seasons.

SET POLICY ON LOCATION OF FIRE STATIONS 10-37

The City Manager pointed out that it would assist the city staff in its planning program if the Council would clear its policy on the location of fire stations.

Mayor Marks stated it would be of general benefit to the community if the following recommendations listed in the City Manager's report to the Council, dated February 18, entitled to "Acquisition of site for fire station on Orangeburg Avenue east of McHenry Avenue", which also related to the "General Policy on Fire Station Location and Design", were adopted as a Council policy:

- 1- Fire stations will be located, and when necessary relocated, to provide an appropriate level of fire protection to a growing, changing city on the most efficient economical basis;
- 2- Fire stations will be designed to permit easy, inexpensive conversion to other uses suitable to the area if relocation becomes advisable.

The City Manager stated that all the city's planning in the fire field has been on the basis that as conditions change stations need to be located in line with the needs. While there is no specific relocation proposed at this point, he continued, all of the new locations are based on the premises that any station will be relocated as the need arises and the facts indicate.

## MOTION

That the Council establish a basic policy on the location of its fire station as set forth in the above captioned report.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried.

APPROVE PURCHASE OF SITE ON ORANGEBURG AVENUE FOR NEW FIRE STATION 10-82

The City Manager reported that in line with the city's need for the location of a fire station in the northern area since the annexation of the Northeast Addition and enlargement of the high value commercial properties in McHenry Village Shopping Center and along McHenry Avenue, studies had been made by the staff of 8 different sites. The best site appears to be the one owned by Mr. J. F. Hennessey located on Orangeburg approximately 500 feet east of McHenry Avenue, at a price of \$4500, he stated, and recommended its purchase. Although it is presently not contiguous to the city limits, annexation would not present any problem since the property owners in the immediate area are also interested in annexation and the area could be annexed before construction of the station is completed. Access to the back of the property would be advantageous and it might be possible the city would need to join with the adjoining property owners in the construction of a minimum street, or construct a driveway.

## MOTION

That the necessary documents be prepared to purchase the property from J. F. Hennessey.

Moved by Robinson      Seconded by Adams      Unanimously carried.

INTRODUCE NEW SENIOR PLANNER, RUSSELL FEY 10-110

Russell Fey, newly appointed Senior Planner, was introduced to the Council by Director of Planning Smeath.

APPROVE CITY HALL PARKING GARAGE PLAN 10-120

The City Manager noted that a report on "City Hall Parking Garage vs. I Street Frontage" dated February 13, 1958 had been given to the Council along with the agenda, a copy of which is on file with the records of this meeting.

Councilman Anderson recommended that the city proceed on the original plan---parking garage---instead of acquiring additional property fronting on I Street.

Councilman Hammond reported that the Council Parking Committee considered that it should not make any recommendation and that the matter be decided by the entire Council. Considering all of the factors involved if a change was made at this time, it would be advisable to proceed with the program for the city hall and parking as proposed originally.

## MOTION

That the city hall program proceed on the original plan for a parking garage and no changes be made in this program.

Moved by Anderson    Seconded by Merrill    Unanimously carried

SET DATE FOR CONFERENCE WITH ARCHITECT MILTON PFLUEGER 11-25

The City Manager invited the Council members to visit the City Hall to inspect the preliminary plans for the new city hall prepared by Architect Pflueger. It was agreed by the Council that this meeting should be adjourned until Tuesday, February 25, at 4:00 P.M. to meet with the Architect.

REPORT ON STATUS OF PUBLIC UTILITIES COMMISSION HEARING ON GRADE PROTECTION 11-42

The City Manager reported that the P.U.C. has suggested, and the staff after a thorough study has agreed, that it would be better to drop the public hearing on railroad grade protection devices, without prejudice, so that it may be brought up again at a later date., on the basis that the Commission be requested to investigate immediately the problem of improving the track circuits of the H, I and L Streets grade crossings to activate the signal protection devices when the trains operate through the intersections on spurs.

## MOTION

That the City Attorney be authorized to advise the Public Utilities Commission of the city's willingness to dismiss this case without prejudice on the basis the Commission be requested to make an investigation on the installation of grade crossing signal protection devices at railroad intersections as recommended by the City Manager

Moved by Merrill    Seconded by Anderson    Unanimously carried

REPORT ON LEGISLATIVE MATTERS 11-56

The City Manager reported on the recommendations of the State Legislative Analyst for reductions in items affecting cities, which would result in sharp cuts in programs.

Fire training program: The complete elimination of the fire training program is recommended by the Analyst.

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## MOTION

That this program be continued on its present basis.

Moved by Merrill Seconded by Adams Unanimously carried

Civil Defense and Disaster Preparedness:

The program be reduced from \$1,107,864 to \$609,302. The City Manager stated without state assistance, it would work a severe hardship on the cities. No action was taken by the Council.

Mental Hygiene--Closing State-Operated Outpatient Clinics:  
Small Craft Harbors

No action taken on these two items.

Assessment standards:

The Analyst recommends a reduction in this item of the amount necessary to provide qualified personnel required for conducting classes for instruction for assessors in assessment procedures and devising and installing complete systems.

## MOTION

That the City support a program for the continuance of the training program on its original level.

Moved by Adams Seconded by Robinson Unanimously carried

REPORT FROM STATE ON GRADES OF CROSSINGS OF FREEWAY 11-100

Pursuant to direction from the Council, the City Manager reported, a check was made with the State of the proposed grades for street crossings of the freeway. These grades will be on the same basis as existing streets except for minor deviations

Sierra Street	0.3 Ft.
G Street	0.8 "
H Street	1.3 "
I Street	0.5 "
K Street	0.3 "
L Street	0.2 "

The Council agreed that these deviations would not present any problems. Mayor Marks asked the City Manager to report on the railroad crossings at the next Council meeting since he would be conferring with the state on these matters next week.

REPORT ON CITY MANAGER'S CONFERENCE IN LONG BEACH 11-115

The City Manager reported on the City Manager's Conference held at Long Beach February 12-14. The Managers voted to ask the Board of Directors of the League of California Cities to ask the military authorities to furnish the necessary information in case cities are confronted with the handling of atomic or nuclear matter. Indications are that the fire grading where the fire and police personnel are available full time for fire fighting, will be substantially increased. Gas tax distribution inequities were also discussed.

A request filed by several cities that the Governor consider along with other matters at a special session of the Legislature, an amendment

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to the revenue regulations which would permit the financing of the construction of small harbors and golf courses with revenue bonds. The Council took no action.

AUTHORIZE EXECUTE RELEASE ON DAMAGE TO CITY STREETS REPAIRED BY STANDARD MATERIALS INC. FOR STANISLAUS CONCRETE PRODUCTS CO.

With the unanimous consent of the Council, the City Attorney was granted permission to raise a matter not on the agenda-request for Council authority to execute release on behalf of the city for damages to city street by the Stanislaus Concrete Products Company by the Standard Materials Inc.

MOTION

That the City Clerk be authorized to execute release on behalf of the city.

Moved by Anderson    Seconded by Merrill    Unanimously carried

INVITATION TO COUNCIL MEMBERS TO ATTEND THE CITY EMPLOYEES' ANNUAL RETIREMENT DINNER

Mayor Marks reminded the Council members of their invitation to the annual city employees' retirement dinner being held on Friday, February 21.

ADJOURN MEETING UNTIL TUESDAY, FEBRUARY 25 12-40


MOTION

That this meeting be adjourned until 4:00 P.M. Tuesday, February 25.

Moved by Anderson    Seconded by Merrill    Unanimously carried

The meeting was adjourned at 6:50 P.M.

ATTEST:

  
REX E. GAILFUS, CITY CLERK

The Council of the City of Modesto met in adjourned session this date at 4:00 P.M., having adjourned from the Council meeting of February 19, as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Absent: Councilmen: Robinson

Mayor Marks opened the meeting for the informal discussion on the final preliminary plans for the new City Hall.

A model of the City Hall was placed on display by Architect Milton Pflueger.

Copies of a report which included the Basis of Design, Outline Specifications Cost Estimate, and List of Final Preliminary Drawings consisting of floor plans, sections and elevations through the building were distributed to each member, a copy of which is on file with the records of this meeting. Mr. Pflueger reviewed the "Basis of Design" as follows:

"The building is of contemporary design, simple in mass and form, with good civic character.

Materials have been selected in conformance with requirements for durability, and economy, with full consideration of maintenance costs.

The structure is Type 1, reinforced concrete.

Exterior finishes are a combination of glazed brick which appears on the Elevator-Stair Tower and the walls of the Council Chamber, and Cement Plaster Stucco on the north wall of the main block.

Featured in the exterior design are the solar screens on the east and west facades. These screens, while adding immeasurably to the design and appearance, have in addition a very practical value. By eliminating direct sun rays from the surface of the glass behind the screens, a reduction of 40 tons of refrigeration for air cooling is realized and a saving of \$1500 per year in operating costs of the mechanical system will be realized. The initial costs of screens is offset by an equal deduction in the cost of the initial cooling system so that all operating savings will be net.

The court will be a combination of attractive landscaping and paved areas.

Night illumination of the east facade and the court will afford a mark of distinction for the building, while providing an area suitable for many civic uses and events.

Interior design and finishes are also predicted upon utmost use, flexibility and durability, consistent to as great a degree as possible with the economy.

The City Hall will be a structure Modesto will be proud of, since it will combine the utmost in practicability with civic character.

The parking structure is of Type 1, reinforced concrete construction. It provides parking on the ground or court level and parking at street level, the roof of the structure. Access to the lower level is by a 2 way ramp from H Street, and stalls for 48 cars are provided on this level, 64 stalls are provided at street level, making a total of 112 stalls. Foundations and columns will be designed to support 2 additional floors (second and third floors) which could be either office floors as future extension of City Hall or garage floors as vertical extension of the parking structure.

Councilman Hammond recommended that as a safety factor, the low brick wall constructed around the edge of the sidewalk be tapered to prevent children from standing on the wall, undesirable loitering on the sidewalk area, and scattering of debris in the court area.

Mr. Pflueger stated that a method of sloping the railing or a curve in the rail could be used and assured the Council the liability hazard on the wall and fence would be kept in mind in the final plans.

A suggestion that a planting area be established in back of the wall was dropped on the basis that debris would collect in the area, and it would be too narrow to be effective.

The desirability of a stairway from the walkway leading into the plaza area from 11th Street entrance, was discussed. Mr. Pflueger considered it would be desirable and an attractive feature as well as permitting entrance to the plaza without going through the building when activities were conducted in this area.

The City Manager suggested that a gate be constructed at the top of the stairway which would prohibit entrance into the area when the City Hall was closed.

After a general Council discussion it was agreed that all entrances to the plaza, from the garage, walkways and ramp, be constructed to permit the closing when desired by gates or doors.

Preliminary outline specifications, were reviewed by Mr. Pflueger (Pages 1-5 of the report). He pointed out that during the past two months the plans and specifications had been reviewed several times by each city department and checked for their particular area within the building. This thorough checking, he stated, would save time in the final drafting of the plans and specifications.

Questions raised by the Council on the specifications and explained by Mr. Pflueger related to suspended ceilings; solar screens; departmental subdividing partitions; interior doors (flushbirch); wood toilet stall doors; and folding partitions (wood versus plastic).

A suggestion that a shower might be included in the custodial area was discussed and the conclusion of the Council was that it would be unnecessary.

Mr. Pflueger stated that the trees, shrubs, lawns and planting as indicated on the plan would be reviewed with the Director of Parks and Recreation.

Mechanical work (Page 4): Mr. Pflueger introduced Mr. Joe Murray, Mechanical Electrical Engineer, who reported on the heating, air conditioning, electrical and plumbing work proposed for the building. The possibility of a noise problem caused by the ventilating system was brought up and cleared by Mr. Pflueger.

The City Manager reported that the plans for an automatic phone system were being cleared with the Pacific Telephone and Telegraph Company.

Parking Structure: This structure is to be reinforced concrete with lower floor on grade and flat slab at street level. Columns and foundations will provide for future roof parking or for future city hall expansion.

Arrangements for closing access to the garage area would be kept in mind in the final plans, Mr. Pflueger assured the Council. He answered a question of Mr. Miller's that--if the garage area was used for some other purpose later on that a ceiling could be constructed to handle lighting facilities. A minor amount of mechanical ventilation is required by uniform code in the garage area, dependent upon the amount of fresh air coming through the openings, which is being provided by a fan in the far corner, which will exhaust to the exterior above.

Councilman Anderson asked if some drainage facility would be provided in the garage area. Mr. Pflueger stated services could be provided for washing, gasing and oiling of cars if desired, but it would be a departure from his present understanding and directive and asked for Council guidance. He pointed out that water and a sump for draining could easily be installed.

The Council generally agreed that the water and drainage would be the only service included in the garage area, and if feasible the other facilities could be installed in the distant future.

#### PRELIMINARY LAY-OUT OF DEPARTMENTS IN THE CITY HALL

Mr. Pflueger listed the proposed location of various department on the four floors as indicated in the plans on file in the office of the City Clerk.

#### Court Floor

Mayor Marks pointed out that the City Hall building was designed on the basis of a city of 50/60,000 population. Many of the desks shown on the plan will not be needed until the population has increased materially.

Mr. Pflueger answered a question raised by the City Manager stating that the proposed metal lathe and plaster wall between the Finance Service Department and the General Storage area could be torn out and placed at another location when needed, or the wall could be made a "dry wall" of plaster board, etc. It was agreed that the wall should be made a "dry wall" for more flexibility. The City Manager suggested a "pass through" arrangement between the two rooms.

#### Street level Floor

Councilman Hammond suggested that the arrangements be made for "coffee break" facilities on this floor where the greatest number of employees would be located, to avoid loss of man hours, instead of locating it on the court floor.

Mr. Pflueger pointed out that the location of this facility on the street level floor, where the most valuable space for public contact is located, would not be as desirable.

The Council generally agreed that the kitchen area should remain on the court floor as proposed in the plans, and that "coffee break" facilities should not be planned for the street level floor.

The City Manager pointed out that many meetings and conferences could be held in the General Purpose Room adjacent to the minimum kitchen on the court floor as well as being used for a coffee break facility.

Council Chamber

Councilman Hammond suggested that the flat circle table arrangement be modified to permit an arrangement similar to the present Council table.

Mr. Pflueger pointed out that it would take a great deal more area in the room and would not conform to the shape of the room as well, as the circle arrangement proposed. It would be possible for the Secretary and press to be closer to the Council also. He agreed that the radius could be slightly shortened without loss of space. The Council recommended that this be done.

Councilman Adams pointed out that the mechanical room located on the court floor under the Council Chamber and the fans located near the Chamber on the street level floor might create a noise factor. He asked that consideration be given to keeping the noise level down as low as possible. Mr. Pflueger outlined plans for the structure of these rooms and agreed that every consideration would be given to minimizing the noise level.

Councilman Hammond pointed out that there was no arrangement for an entrance from the alley on this floor. Mr. Pflueger stated openings were arranged from the parking area, 11th and H Streets. He stated that physically it would be difficult to furnish an entrance from the alley and functionally it would not be required. The Council agreed that the opening would not be necessary, since the walkway around the minimum parking area on the alley leading into the north side of the building would suffice.

Second Floor Plan

Mr. Pflueger outlined the plans for this floor and explained that the desk and floor arrangement shown was for a city of 50/60,000 and would not all be used at the present time. Screens will be located in certain areas, to delineate uses and provide better working areas. The possibility of blocking off a portion of the area not in use to save on air conditioning and heating was discussed but considered not feasible.

Third Floor

The City Manager noted that the clerical and reception office in the City Attorney's department appeared to be larger than in the City Manager's department although there would be the same number of personnel.

It was suggested that the entire row of walls in the two departments might be of combination wood and glass made in removable sections.

The City Attorney pointed out that there would be a problem in the Law Library on placing of book shelves on a wood and glass combination wall.

Mr. Pflueger stated that there would be a little more transference of sound with the wood and glass than a solid wall. He pointed out the advantages of locating the law library between the two offices instead of at one end of corridor as suggested by Councilman Hammond.

The City Manager pointed out the space allocated for the Assistant City Attorney could be used for some other purpose until there was a need for this person.

Councilman Hammond suggested that some arrangements of flexibility for the moving of the partitions be considered, bearing in mind the acoustic value of types of walls and the noise factor.

The City Manager noted that no provision had been made for a working area for the press. It was agreed that various conference rooms would be available for this use, when and if necessary.

The City Attorney urged that the walls of the law library be solid to permit book storage.

Elevation of building structures

No questions were raised.

Mayor Marks commended Architect Pflueger and his staff on the plans for the building and parking area.

Answering a question of the Council Mr. Pflueger stated a corner stone or tablet would be provided. He outlined the color of the materials to be used on the outside construction. He noted that the estimated cost of the structures was included in his report.

MOTION

That the final preliminary plans and final preliminary report for the city hall and parking structure as submitted by Architect Milton Pflueger, dated February 14, 1958 be approved.

Moved by Adams      Seconded by Anderson      Unanimously carried

MOTION

That the staff be instructed to present a report on the financing of the city hall, parking structure and furnishings

Moved by Arata      Seconded by Anderson      Unanimously carried

MOTION

That this meeting be adjourned until 7:00 P.M. February 26 to consider appointments to various Boards and Commissions.

Moved by Merrill      Seconded by Arata      Unanimously carried

ATTEST

  
City Clerk

The Council of the City of Modesto met in adjourned session, having adjourned from the adjourned Council meeting of February 25, 1958, at 7:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Absent: Robinson

MOTION

That the Council sit in executive session to consider appointments to boards and commissions.

Moved by Anderson Seconded by Merrill Unanimously carried


Consideration was given to names suggested by Council members for appointments to the new Board of Electrician Examiners, Board of Zoning Adjustment, Personnel Commission, Board of Plumbing Examiners and Library Board.

MOTION

That the meeting now in session be adjourned.

Moved by Merrill Seconded by Anderson Unanimously carried

ATTEST:

  
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Street, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Absent: Councilman Robinson

The pledge of allegiance to the flag was given by all those present.

Rev. Guy D. Smith gave the invocation.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of February 5 and 13 and adjourned meeting of February 13, 1958, and the same being available for public inspection and there being no objections, the minutes were approved.

ACCEPT BID OF MODESTO INDUSTRIAL ELECTRICAL COMPANY FOR FURNISHING STREET LIGHTING STANDARDS 1-17

Tabulation of the bids received for the furnishing of street lighting standards were considered by the Council. Director of Public Works Ray recommended that the low bid of \$1,597.64 submitted by Modesto Industrial Electrical Company be accepted.

RESOLUTION NO. 58-62

A RESOLUTION ACCEPTING THE BID OF MODESTO INDUSTRIAL ELECTRICAL COMPANY INC. FOR THE FURNISHING OF STREET LIGHTING STANDARDS

Introduced by Anderson                      Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

Since the difference in the bid submitted by this company, which is located outside the city limits, was only \$1.67 lower than the bid submitted by Wille Electric Company located inside the city limits, the Council discussed the possibility of accepting the higher bid.

The City Attorney pointed out that the Charter provided that preference be given to local merchants when quality and price are equal, but the two bids were not equal.

REQUEST PERMISSION DROP TICKETS FROM AIRPLANE TO VALLEY HOME SHOW OF FRESNO 1-55

With the unanimous consent of the Council Mayor Marks raised a matter not on the agenda---letter from E. David Beatie, Advertising.

The company requested permission to drop free drawing tickets over

the City of Modesto from an airplane advertising the Valley Home Show being held in Fresno, March 26-30.

City Manager Miller pointed out that the Municipal Code prohibited this type of operation.

MOTION

That the request be denied and a letter be sent by the City Clerk citing the Code section which prohibited this type of operation.

Moved by Anderson      Seconded by Arata      Unanimously carried.

FINAL ADOPTION OF ORDINANCES 1-70

ORDINANCE NO. 224-C.S. entitled

"AN ORDINANCE AMENDING SUB-SECTION (1) OF SECTION 5-6.206, ARTICLE 2 OF CHAPTER 6 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO SEWER SERVICE CHARGES"

introduced on February 13, 1958, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Adams                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                      Absent: Robinson

ORDINANCE NO. 225-C.S. entitled

"AN ORDINANCE LEASING CERTAIN CITY OWNED AIRPORT PROPERTY TO NAKAGAWA FARMS AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH, TERMINATING AN EXISTING LEASE RELATING THERETO, AND REPEALING ORDINANCE NO. 55-C.S.

introduced on February 13, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Anderson                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                      Absent: Robinson

ORDINANCE NO. 227-C.S. entitled,

"AN ORDINANCE AUTHORIZING SALE OF WALNUT TREES LOCATED ON THE DRYDEN PARK MUNICIPAL GOLF COURSE SITE IN THE CITY OF MODESTO"

introduced on February 19, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                      Absent: Robinson

HOLD OVER ACCEPTANCE OF FIRE PUMPER 1-90

This matter was held over for clearance.

REPORT ON PETITION FOR INSTALLATION OF CURBS AND GUTTERS FOR ASHBY PARK 1-95

The City Manager reported on investigations of the request of petitioners for the installation of curbs and gutters around Ashby Park. The estimated cost for the curbs and gutters would be \$1500 to \$1700, landscaping \$100 and sprinkling system \$275. He recommended that this matter be included in next year's budget proposals for consideration along with other park areas.

Director of Parks and Recreation Lowrey reported that all of the surrounding properties facing on the park had curbs and gutters with the exception of one property.

MOTION

That the improvement of this park area be considered in the next year's budget.

Moved by Anderson

Seconded by Merrill

Unanimously carried

## ORDINANCE NO. 228-C.S. entitled,

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM BEARD LAND AND INVESTMENT COMPANY, A CORPORATION (SUCCESSOR IN INTEREST OF MODESTO TERMINAL COMPANY, A CORPORATION)"

introduced on February 19 and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                              Absent: Robinson

ORDINANCE RELATING TO CITATION PROCEDURE 1-80

## ORDINANCE NO. 229-C.S. entitled,

"AN ORDINANCE ADDING CHAPTER 5 ENTITLED "CITATION PROCEDURE" TO TITLE 1 OF THE MODESTO MUNICIPAL CODE"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata                      Seconded by Anderson

Ayes: Adams, Arata, Anderson, Hammond, Merrill, Mayor Marks

Noes: None                              Absent: Robinson

REQUEST FOR REDUCTION IN RENT OF SPACE IN STORE BUILDING LOCATED AT NINTH AND I STREETS 1-85

A letter received from Myra Harp, operating a used furniture and clothing store in the Riggs building recently purchased by the city, was read. Mrs. Harp asked that her monthly rental of \$130 be reduced.

## MOTION

That the letter be referred to the staff for investigation and report.

Moved by Hammond      Seconded by Anderson      Unanimously carried

APPOINTMENTS TO BOARDS AND COMMISSIONS 2-01

## RESOLUTION NO. 58-63

A RESOLUTION APPOINTING CORBIN F. FAIRFIELD, LAWRENCE H. DEWITT, ELTON E. PHILLIPS AND ELDON L. HELM MEMBERS OF THE BOARD OF ELECTRICIAN EXAMINERS OF THE CITY OF MODESTO

Introduced by Hammond              Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                              Absent: Robinson

## RESOLUTION NO. 58-64

A RESOLUTION APPOINTING HENRY H. LAWS AND REAPPOINTING ELMER L. WINGER MEMBERS OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

APPROVE APPOINTMENT OF J. STANLEY OTT AS DIRECTOR FOR ADVANCE PLANNING PROGRAM 2-20

The City Manager reported that J. Stanley Ott had been designated as Director of Advance Planning by a joint oral board but in order to make the appointment official, it would be necessary for the County and cities within the County to approve the appointment.

RESOLUTION NO. 58-65

A RESOLUTION APPROVING THE APPOINTMENT OF J. STANLEY OTT AS DIRECTOR OF ADVANCE PLANNING

Introduced by Adams                      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

APPOINT ROBERT E. ALFORD AS MEMBER OF PERSONNEL COMMISSION 2-27

RESOLUTION NO. 58-66

A RESOLUTION APPOINTING ROBERT E. ALFORD A MEMBER OF THE PERSONNEL COMMISSION OF THE CITY OF MODESTO

Introduced by Mayor Marks                      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

APPROVE STATEMENT FOR EXPENDITURE OF 1958-59 GAS TAX FUNDS 2-31

Pursuant to Council direction, the City Manager presented for Council approval a project statement of proposed expenditures for the fiscal year 1958-59 of gas tax funds in order to advance the start of the program. Upon approval of the projects by the Council, he stated, the statement will be submitted to the Division of Highways which will then prepare a Memorandum of Agreement for formal action by the Council.

Projects proposed for available gas tax funds for 1958-59 year

Street Maintenance	\$39,936.
Construction of LaLoma Avenue from Santa Rosa to Yosemite Blvd. to a paved width of 40'	31,900.
Improvement of G Street from 14th to Burney by paving of a 24' center strip with oiled shoulders	8,800.
Improvement of 8th Street between L and Washington by paving 24' center strip with oiled shoulders	9,150.
Improvement of Granger Ave. between Tully Ave. and McHenry Avenue by paving to a 40' width	57,200.

Hold-over projects recommended for continuation

Improvement of Tully Ave. from 9th St. to Coldwell	\$35,500
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Improvement of College Ave. from Carla to Briggsmore	\$45,000.
Improvement of Roseburg Ave. from Tully Ave. to McHenry Avenue	34,650.

The City Manager pointed out that the LaLoma project was being proposed on the basis that the property owners would be requested to install curbs.

Councilman Anderson recommended that the stop sign presently installed on 15th and G Streets be changed so that the sign would stop traffic on 15th Street instead of G Street due to the increase in traffic on this street since the extension of G Street into LaLoma. The City Manager stated a check would be made and reported to the Council.

#### MOTION

That the staff be authorized to submit the recommended gas tax project to the State Division of Highways for approval.

Moved by Arata      Seconded by Anderson      Unanimously approved

The City Manager stated that amendments to the memorandum of agreement might be necessary later on the hold-over projects depending on the progress made on obtaining right of ways. A report will be made at a later date, he stated. Every property owner along each of the projects is being contacted by letter advising that the projects are being held up because of the need to clear the right of way and asking them to co-operate.

He reported on the progress being made on the installation of signals on Yosemite Boulevard. These will be checked out with the state, he stated, along with some of the other pending projects next week and a report submitted to the Council.

#### HEARING ON THE APPLICATION OF BUMGARDNER WATER COMPANY FOR FRANCHISE TO OPERATE A WATER SYSTEM IN THE CITY OF MODESTO 2-105

Mayor Marks declared that the hour of 8:00 P.M. had arrived, the time set for the consideration of the application of George and Gladys Bumgardner, doing business as Bumgardner Water Co., to operate a water system in the city limits.

The City Clerk certified that the notice of the hearing had been published in the manner and for the time prescribed by law and that no written protests had been filed.

The question previously raised by the Council members relating to the operation was discussed at this time: what can the city require in the way of facilities installed by the company?

The City Attorney stated that basically the franchise is for the privilege of using the city streets or designated streets and relates to the manner of excavations, removals, abandonment, etc. The Public Utilities Commission basically has control over the service that is provided by the applicant. He listed the matters covered by the proposed franchise ordinance.

The City Manager reported that Mr. Bumgardner has advised that most of the mains are 4" or 6" and there are some portions dead ends which he planned to connect to meet the requirements of the P.U.C. and raise the standard of service. It would be almost impossible for this company to

meet the city standards. The matter of installation of fire hydrants has also been discussed and the use of water from this system and a possible connection between the two systems. He suggested that this matter be on a contractual basis instead of included in the ordinance. The Company has assured the staff of its willingness to cooperate in this matter. They would like to have a connection similar to the Cecil Water Company which would be shut off and only opened if emergency situations require. The Company would be willing to have the city use its system for fire protection purposes and to install hydrants on the system, at city's expense.

The City Manager reported that the company had agreed that the franchise be limited to those areas which are presently served and to such other streets or areas of the city which may be approved by resolution of the city Council.

The City Attorney pointed out that this provision varied from the original franchise ordinance which would have granted permission to lay and install pipes and distribute water within any of the streets of the city.

Councilman Merrill stated that he had cleared all of the questions which he had raised at the previous Council meeting relating to the operations of the Company.

The Director of Public Works reported that it is planned to construct an 8" main on Granger Avenue, between College and Tully Avenues before the street is paved, through the areas served by the company, which would not be connected to the water system but would be equipped with fire hydrant

Terms of the proposed 20 year franchise were outlined by the City Attorney. He pointed out that the basic problem to be resolved by the Council was---the area to be served.

Mr. Bumgardner indicated that the limited area outlined by the City Manager would be satisfactory.

The City Manager reported for Council information that the situation on fire hydrants would be different for the franchise proposed for the Del Este Water Company since this company installs hydrants. This company is asking that some consideration be given to a different rate, which is recommended. The City Attorney reported that the Del Este Water Company also claimed certain rights under franchises which were granted by the County, the legislation of which are subject to controversy.

The City Manager recommended the granting of the franchise to the Bumgardner Water Company on the basis outlined.

Mayor Marks asked if there were any oral protests from the audience. No protests were filed. Mayor Marks declared the hearing closed.

#### MOTION

That the City Attorney be directed to prepare the ordinance to include the revision as recommended by the City Manager as to the area to be franchised.

Moved by Merrill      Seconded by Arata      Unanimously carried

#### HEARING ON APPLICATION OF LEROY GILTON FOR A SWILL LICENSE 3-95

Mayor Marks announced that the hour of 8:15 P.M. had arrived, the time set for the public hearing on the application of Leroy Gilton, operating the Gilton Bros. Hog Ranch, Rt. 3, Box 1337, Oakdale, for a license to collect swill in the city limits, as provided by Section 5-5.15 of the Modesto Municipal Code.

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The City Clerk certified that notice of the hearing had been sent to all other persons licensed by the city to collect swill, Rudy Bonzi and Joseph Agresti. He stated that no written protests had been filed.

The City Manager pointed out that Mr. Gilton was a member of the Airport Garbage Company which had a franchise in part of the city to collect garbage. The basic question to be considered by the Council, he stated, is whether or not in the public interest another swill permit would be desirable. He pointed out that all present swill licenses were non-exclusive which permitted the collection of swill throughout the entire city. The Council discussed the problems involved if too many permits were issued, due to the limited amount of swill to be collected.

Mayor Marks asked if there were any oral protests. Jack Lamb, Counsel for Joseph Agresti, operating the American Hog Farm, protested the granting of another license on the basis that the service now being rendered by this company, which collected most of the swill in the city, was satisfactory, that the company was equipped to cook the swill before feeding the hogs as required by the state health code since it had an investment of \$20,000 for the equipment, that the two persons now licensed were not in competition since Mr. Bonzi collected from the canneries and industrial plants only, while Mr. Agresti from the restaurants and other places, that since the approximate amount of swill for the city was only 2 tons per day, and the cost of equipment a major item, it would be in the best interest of the city that the number of licenses be limited. He pointed out that other cities had encountered difficulties where a competitive situation had existed, and it was difficult in placing responsibility for the prompt removal of the swill in a clean and satisfactory manner.

Mr. Rudy Bonzi protested to the granting of an additional license due to the limited amount of swill.

Mr. Gilton stated that since the LaLoma-Yosemite area annexation, his company had been granted a franchise to collect garbage in the area but was unable to collect swill as was formerly done before annexation. Also persons in other sections of the city had contacted him regarding collection of swill.

The City Manager recommended that the permit not be granted with the additional stipulation that if the merchants and plants have any problems with the collection of swill, that it be brought to the attention of the staff and presented to the Council for action at any time it is required. The addition of another collector might create more problems than it resolved. However, he stated, if Mr. Gilton wishes to make an application for the area in which he is presently picking up garbage, it might be satisfactory.

Councilman Merrill considered that there would only be enough swill for two firms and if an additional permit was granted it would create problems.

Councilman Hammond pointed out that when areas were annexed to the city the "status quo", was continued as much as possible and that the Airport Garbage Company had been collecting swill prior to annexation. He concurred in the recommendation that a too competitive situation should not be permitted but an exclusive license would not create a competitive situation.

Mayor Marks pointed out that an exclusive permit was not the question before the Council but asked as a point of interest if the presently licensed swill collectors would object to the granting of such a permit to Mr. Gilton.

Both Mr. Agresti and Mr. Bonzi indicated they would have no objections to the granting of an exclusive permit to Mr. Gilton for the area in which he is now licensed for garbage collection.

Mr. Gilton stated that he was presently buying the swill from the Normandy Restaurant which is located outside this area.

RESOLUTION NO. 58-67

A RESOLUTION DENYING THE APPLICATION OF LEROY GILTON FOR A LICENSE TO COLLECT SWILL IN THE CITY OF MODESTO

Introduced by Anderson      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Robinson

Mayor Marks suggested to Mr. Gilton that he submit a new application for an exclusive permit to collect swill in the area which he is presently licensed to collect garbage for Council consideration.

The City Manager suggested that Mr. Bonzi and Mr. Agresti check out the boundaries of the area in the office of City Clerk prior to the public hearing on the new application, to determine if they had any customers in this area.

Mayor Marks declared the hearing closed.

PRESENTATION OF CITATION AND PLAQUE TO RETIRING MEMBER OF THE PLANNING COMMISSION ELDON BOUNDEY 6-08

Mayor Marks awarded E. J. Boundey, retiring member of the Modesto City Planning Commission, a certificate of service and plaque honoring his long term of office on the Commission (1946-58) and ex-officio member (1922-33).

RESOLUTION NO. 58-68

A RESOLUTION COMMENDING E. J. BOUNDEY FOR OUTSTANDING SERVICES RENDERED THE CITY OF MODESTO

Introduced by Merrill      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Robinson

Commissioners Shearn and Swartling were present.

CHANGE NAME OF LENA AVENUE TO JASMIN AVENUE 6-70

RESOLUTION NO. 58-69

A RESOLUTION CHANGING THE STREET NAME OF "LENA AVENUE" BETWEEN CHARLES AND FLOYD AVENUES TO "JASMIN AVENUE" IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Merrill

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Robinson

CHANGE STREET NAME OF LA CEINECA AVENUE TO LA CIENEGA 6-70

RESOLUTION NO. 58-70

A RESOLUTION CHANGING THE STREET NAME OF "LA CEINECA AVENUE" TO "LA CIENEGA DRIVE" IN THE CITY OF MODESTO

Introduced by Anderson                      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

CLEAR LETTER TO DR. JAMES H. CORSON, RELATING TO USE OF CITY PARKS 6-80

The City Manager read for Council approval, a letter proposed to be sent to Dr. James H. Corson, Superintendent of Modesto City Schools relating to city policy on joint use of city parks located adjacent to city schools.

The Director of Planning reported that the question had to do with the possible need to widen Elsie Lane and Hudson Lane adjacent to the James Marshall School located on Sutter Street. When this area was still in the county, he stated, these 2 streets were dedicated 40 feet wide and the school had considered at the time it had purchased just enough land for school purposes and could not dedicate any more land for street widening. On the basis that the park has been acquired adjacent to the school which can be used for play purposes, the Board wants to reconsider its former decision. However, the Board wants some kind of statement in this particular case so that in the future some custodian of the park will not require the school children to stop playing on the park area.

The City Manager stated that the park area is still undeveloped but it is planned to develop it in such a manner that it can be used by the children both when school is in session and when it is not.

## MOTION

That the content of the letter to be sent to Dr. James H. Corson setting forth the Council's policy "that parks adjacent to schools are to be available for use by school children" meets with the Council approval.

Moved by Anderson                      Seconded by Adams                      Unanimously carried

REPORT ON STAFF STUDY OF FREEWAY AND EXPRESSWAY ROUTES FOR CITY (SENATE CONCURRENT RESOLUTION NO. 26) 6-115

Pursuant to Council direction the City Manager filed a report on "System of Freeways and Expressways to be recommended to the State Department of Public Works by the City of Modesto Under the Provisions of Senate Concurrent Resolution No. 26", a copy of which is on file with the records of this meeting.

The report indicated the general route qualification information requested by the state and the map accompanying the report showed general locations for illustration only, except for Highway Routes 99 and 132, which routes had been already designated by the State Highway Commission. Other routes were shown generally on existing street alignments, since ultimate, precise locations have not yet been determined. He stated that it was proposed that the County present its recommendations on a map which shows Modesto and Ceres routes also and the Modesto City and Ceres routes be shown at larger scale on separate maps. The only present city street

shown which might be an expressway is the Briggsmore, Northern Boulevard alignment, he stated. The other streets shown on the map are Carpenter Road and Whitmore Road alignment and Mitchel Road alignment, which gives a peripheral route around the city. The County is recommending these roads which are not in the city limits.

To a question from Mayor Marks, Director of Planning Smeath stated that the M.I.D. lateral No. 4 route was being shown in the general plan for the possible location of a state highway but on this map, the state desired route designations rather than locations. They feel that at this time the city should not attempt to get precise but the use of the lateral will be considered later and it is under consideration.

The City Manager stated that the staff was working on some additional explanatory material requested by the State which would accompany the route and map.

#### MOTION

That the general presentation to the State on Senate Concurrent Resolution No. 26, as outlined by the City Manager be approved on the basis that this report is the best that can be foreseen at this time, and subject to revisions as conditions and facts indicate.

Moved by Anderson                      Seconded by Adams                      Unanimously carried

Mayor Marks pointed out that the city was not proposing to proceed in the development of the routes indicated on the report but the report was based on the possible location of freeways and expressways by the year 1980.

#### HOLD OVER REPORT ON ATTORNEY GENERAL'S OPINION RELATING TO ASSESSMENT OF AGRICULTURAL PROPERTY UNTIL COUNTY ASSESSOR IS PRESENT 7-42

Mayor Marks requested that this item be held over until County Assessor Broadwell could be present.

The City Manager was asked to contact Mr. Broadwell and make arrangements with him to be present. When these arrangements had been made the matter should be again placed on the agenda.

The City Attorney filed his report on the Attorney General's opinion relating to assessment of property zoned exclusively for agricultural and recreational purposes, copies of which had previously been distributed to each Council member.

#### DISCUSSION WITH STATE WATER POLLUTION CONTROL BOARD ON PRIORITIES FOR ALLOCATION OF FEDERAL FUNDS 7-67

The City Manager reported on his conference with the staff of the State Water Pollution Control Board relative to priorities for allocation of federal funds. A request was made with the Board, 1) give the City of Modesto credit for what it has done in the terms of weighing of the priorities; 2) consider putting it on a similar basis as the federal airport program.

He stated that he had gone so far as to advise the Board that in the interest of the city if this program is continued on the present basis that he would have no alternative but to consider recommending that the City of Modesto let its sewer disposal become so bad that it would be in a position to get some help. He considered that it wasn't fair to the City of Modesto to spend its money to resolve the sewer problem and keep resolving it if by neglecting it the city would be in a position to get some federal funds.

He reported that he had pointed out to the Board that it was forcing cities into the position of "doing nothing" to solve their own problems. He reported on the system being used by the State of Illinois where credit is allowed for voluntary abatement progress and excellent prevention progress.

The City Manager is to make a presentation to the State Board in San Francisco on March 5, 1958.

REPORT ON FORMATION OF STANISLAUS COUNTY HIGHWAY ADVISORY COMMITTEE 7-103

The City Manager reported that the County Board of Supervisors had acted on the proposal made by the special City-County Committee that a Stanislaus County Highway Advisory Committee be appointed. The Mayor and City Manager or City Administrator, Director of Planning, and City Engineer of each city will be members of this committee.

The City Manager stated that the Director of Parking and Traffic would also assist on the Committee and he would check out the matter of his also serving on the committee.

MOTION

That the serving of above designated officials of the city on the Stanislaus County Highway Advisory Committee be approved.

Moved by Anderson      Seconded by Merrill      Unanimously carried

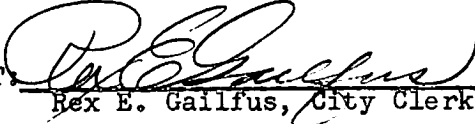
ADJOURNMENT

MOTION

That this Council meeting be adjourned until 3:45 P.M. Wednesday, March 5 to meet in executive session to consider appointments to Boards and Commissions.

Moved by Anderson      Seconded by Merrill      Unanimously carried

ATTEST:

  
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Anderson, Arata, Hammond, Merrill, Mayor Marks

Absent: Councilmen Robinson, Adams

Councilman Adams arrived at 4:05 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Nick Vander Veur gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of February 19, and the same being available for public inspection and there being no objections, the minutes were approved.

#### REQUEST FOR USE OF SIDEWALK FRONT POST OFFICE TO COLLECT FUNDS FOR YMCA WORLD SERVICE BY TRI-Y-SIGMA PHI 1-35

A letter was read from the Tri-Y-Sigma Phi requesting permission to use the sidewalk area in front of the Post Office, 12th and I Streets, on Saturday, March 22, between the hours of 10 A.M. and 3 P.M., to collect funds for the YMCA World Service. Mrs. Barbara Gillespie, representing the organization, stated they wanted to use a 2 foot area on the sidewalk near the parking meters on I Street for a penny march. She answered a Council question---that this activity was not at this time considered as a regular annual event for the organization. Mrs. Gillespie was asked to confer with Director of Parking and Traffic Douglas Carmody to work out a satisfactory arrangement for the location of the cardboard trench to be used for the collection of the coins so that it would not prove a traffic hazard for persons entering the post office.

The City Manager pointed out that the city's comprehensive liability policy would afford protection for the city but the organization should be responsible for any possible negligence on its part in case of an accident.

#### RESOLUTION NO. 58-71

A RESOLUTION GRANTING PERMISSION TO THE TRI-Y-SIGMA PHI TO USE THE SIDEWALK AREA IN FRONT OF THE MODESTO POST OFFICE BUILDING LOCATED ON TWELFTH AND I STREETS IN THE CITY OF MODESTO ON MARCH 22, 1958 BETWEEN THE HOURS OF 10 A.M. TO 3 P.M. ON THE BASIS APPROVED BY THE DIRECTOR OF PARKING AND TRAFFIC

Introduced by Merrill                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None                                      Absent: Robinson

#### PETITION FILED BY PROPERTY OWNERS REQUESTING INSTALLATION OF CURBS AND GUTTERS AND PAVING OF TERESA STREET 1-76

A petition filed by property owners requesting Teresa Street from

Carver Road to Tebbutt Street be paved and gutters and curbs installed was considered by the Council.

MOTION

That the petition be referred to the staff for investigation and report.

Moved by Anderson      Seconded by Arata      Unanimously carried

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR INSTALLATION OF LIGHTING MATERIALS IN McHENRY VILLAGE NO. 1 and NO. 2 SUBDIVISIONS      1-85

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RESOLUTION NO. 58-72

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE INSTALLATION OF STREET LIGHTING SYSTEM IN McHENRY VILLAGE #1 AND #2 SUBDIVISION

Introduced by Adams      Seconded by Anderson

Ayes: Adams, Anderson, Arata, Hammond, Merrill, Mayor Marks

Noes: None      Absent: Robinson

The time set for the opening of the bids was Monday, March 17, at 2 P.M.

REVIEW ASSESSMENT OF AGRICULTURALLY ZONED LAND WITH ASSESSOR KARYLTON BROADWELL      1-95

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Mayor Marks reviewed the action taken by the Council on January 8 relating to assessment of agriculturally zoned land that it go on record when land was zoned and limited to long term agricultural use, no matter where located, it should be assessed on the basis of agricultural purpose and that if this is not possible within the present laws or state constitution, the city support the necessary changes which would made it possible.

The City Attorney's report, "Comment on Attorney General Opinion No. 57/219 relating to the Assessment of Property zoned and used exclusively for agricultural and recreational purposes" dated February 25, submitted in response to the request of the Council, after receipt of opinions from Assessor Broadwell was read, and ordered filed with the records of this meeting.

Mayor Marks stated that in fairness to Mr. Broadwell, Council discussion of the assessment of agricultural zoned land had been withheld until he could be present to answer any questions raised by the Council members.

Mr. Broadwell read a statement into the records of the meeting. The points brought out in the statement were as follows:

- 1- Whenever any specific preferential treatment was sought by any special group it normally works a hardship on someone else;
- 2- Agricultural interests in California are faced with a real and serious problem which is caused primarily by the rapid development of residential, commercial and industrial properties;

3- This development will bring about a change in the use of much of the agricultural land and this change should be orderly and geared to an absorption rate which will benefit both industry and agriculture alike;

4- The so called green belt in area of economic transition cannot by self imposed restricted use avoid the just imposition of taxes as set forth in the Constitution and the Revenue Laws of the State are the market value of these properties must be ascertained by the same tests as that of any other property; 1) replacement cost, 2) income analysis, and 3) sales analysis;

5- Green belts in fringe or encroachment areas can, however, with the proper assistance from planning consultants, aid in the orderly transition of agricultural properties to other uses over a period of time thereby maintaining a constant and uniform flow of value from one use to another in areas of considerable size.

Mayor Marks raised the following questions;

- 1- How can a green belt idea be started?
- 2- Would it be started on a local, state or federal level?
- 3- Would the local interested parties accept the green belt idea?

Mr. Broadwell stated that the green belt was probably a desirable thing but the Assessor is not required to determine this; that the establishment of a green belt might be started on a state level, which could be accomplished by a constitutional amendment; that as a personal observation, some of the areas adjacent to cities are not economical farming units and many owners have stated that they were holding on for the time when they could sell their land as a subdivision site or as an industrial site.

The basis of assessing agriculturally zoned land is---the highest and best use on the present day market. The assessing of the land is done by the Assessor but the various political bodies, such as the city, schools and county determine the levy of taxes on the basis of the amount of money to be raised.

The City Manager asked Mr. Broadwell if it would make a difference to him in assessing land if either now or under some other provisions which might be developed, if it could be designated <sup>ed</sup> as agricultural for a specific number of years.

Mr. Broadwell stated that if it were designated agricultural or some other use for a specified number of years the restrictive value can be ascertained. A buyer would not go in and buy this agriculturally zoned land for an industrial site when he knows that for nine more years it is going to be a ranch.

The City Attorney pointed out the difficulty of establishing governmental restrictions on a given piece of land for a given number of years.

Mayor Marks questioned whether it would be desirable for legislation to be adopted on the state level rather than on the local level.

No other questions were raised by the Council members and Mayor Marks thanked Mr. Broadwell for appearing before the Council to discuss the assessing program.

INFORMAL HEARING ON BUSINESS LICENSE ORDINANCE 3-25

Mayor Marks opened the meeting at 4:30 P.M. for the informal discussion on the proposed business license ordinance.

The City Manager reported that pursuant to Council direction the staff had conferred with Lee Davies, local manager of the Pacific Telephone & Telegraph Company, on a method to be established for the payment of a business license fee based on volume of business. It was agreed that more time should be taken on this discussion at staff level and a recommendation would be submitted later to the Council for consideration.

Mayor Marks stated that there had been some indication at the last meeting that the Council decisions on certain sections of the ordinance should be finalized so that the ordinance could be prepared in final form by the staff.

Professional and Service Group

The license fee to be paid by music teachers was discussed by the Council, staff and Mrs. Bernice Rader, representing the Stanislaus County Music Teacher's Association. The 3 types of teachers, those who teach in their own homes, those who teach in a studio, and those who teach in a home other than their own or in a church building were discussed.

The City Manager pointed out that the Business License Committee recommended that there be a license for home occupations under zoning permits and that music teachers be included in the license provisions. The committee considered the fact that basically the ordinance was on the basis that those persons who are engaged in business will be subject to a business license tax. If this would not apply in the case of music teachers there must be a reasonable basis for the exemption. He pointed out that it would be difficult to differentiate between those persons giving music lessons, art lessons, dance lessons or some other activities related to cultural matters.

## MOTION

That an annual license fee of \$10 be fixed for home occupations as defined in the zoning ordinance.

Introduced by Hammond (not seconded) (after discussion withdrawn)

The Council discussed the definition of "home occupations" as defined by the zoning ordinance. The City Attorney considered that those teachers teaching in other than their own homes such as a church, or a home of a relative or friend would have to be classed as a different operation than a home occupation and would be subject to a regular business license registration fee, plus mill fees.

Mayor Marks suggested that the piano teachers be exempted from paying a license on the grounds that "the custom of the citizens make Modesto a musical center and this activity should be encouraged as much as possible".

Councilman Anderson considered that music teachers as a class should not be individually considered but all other types of teachers and types of home occupations be considered under one heading instead of trying to distinguish one from the other.

## MOTION

That the staff prepare for Council consideration a provision

under which those who are engaged in cultural or educational activities conducted at other than an established place of business would be subject to a flat fee of \$10 per year.

Moved by Hammond Seconded by Merrill Unanimously carried

#### MOTION

That the Council approved the committee's recommendations on "Professional and Service Group" with the one exception of the music teachers.

Moved by Hammond Seconded by Arata Unanimously carried

#### Retailers. Contractors

#### MOTION

That the recommendations of the Committee on "retailers, contractors, all other retail businesses not otherwise specified in this proposal be approved.

Moved by Hammond Seconded by Merrill Unanimously carried

#### Wholesalers. Manufacturers. Processors. Etc.

Mayor Marks reviewed his previous suggestion that the rates proposed for wholesalers, processors and manufacturers be split into 3 ranges:

<u>Amount of business</u>	<u>Rate</u>
\$200,000 or less	\$10 or \$15 (minimum)
\$200,000 up to \$1,000,000	\$50
\$1,000,000 up to \$8,000,000	\$250 (maximum)

He pointed out that the amount proposed to be collected from the 164 firms in the city, falling under this category was only \$14,000, that the Council wished to create a climate agreeable to industry and did not wish to do anything which would drive industry out of the city.

William Falger, Chairman of the Industrial Committee of the Modesto Chamber of Commerce read a statement, a copy of which is on file with the records of this meeting, recommending that the manufacturers and processors be excluded from the mill tax for business license and subject only to the \$25 registration fee.

Don Hardie, representing the Milk Producers, opposed any type of tax which would be based on gross income, and recommended that the rate be based on a flat rate or on the number of employees. He stated that most of the cities in California had a rate based on the number of employees and the milk industries favored this type of license fee.

Director of Finance Bird reported on a report prepared by the League of California Cities, listing a tabulation of methods of taxing made by Malcolm Davison which showed that out of 267 cities, 81 were based on gross receipts, 70 on flat rates and 61 on average number of employees and 71 required no license fee.

Mr. Hardie acknowledged that the license fees paid on an average number of employee basis would amount to approximately the same as based on the schedule fee suggested by Mayor Marks. He asked that as a representative of agricultural interests the Council consider, when it uses statistics from the League, Modesto is basically an agricultural area which is not true if all cities belonging to the League.

Mayor Marks assured Mr. Hardie that this had been done by the Committee and Council.

P. Arnold Anderson, representing the Municipal License Tax Association, pointed out that many cities had successfully used the average number of employees license method of taxation for many years, so there must be some merit to this basis of taxation of industry. He stated that it would not work a hardship on a seasonal type of operation since the average number of employees over a period of a year is used. This method is used as a yard stick to gauge the size of operation and eliminates the need of reporting the actual dollars and cents. He pointed out that the advantage to this in manufacturing concerns was that a large percentage of business was done under interstate commerce, which is not taxable. If gross receipt basis was used the manufacturer must segregate his receipts to eliminate the interstate business. If all of the business is interstate, the question arises whether the company should be entirely exempt from taxation. Most industries located within a city would be apprehensive if a gross receipt type of taxation was used and the ordinance did not provide a statement on interstate commerce. He contended that the city's present proposal for a bracketed type of license fee was really a gross receipt basis. He stated that if desired a bracket arrangement, with a maximum and minimum fee could also be established for an average number of employee type of license.

#### Wholesalers

Mr. Anderson asked the Council to bear in mind when establishing the license fee for wholesalers, who are bringing payrolls into the city, that they are, because of the nature of their operations, subject to license tax in many other cities. The Supreme Court of California has recognized this situation and ruled that it is not possible to charge a license fee on business transacted outside the city. He asked that this be kept in mind in the wording of the ordinance.

Mr. Anderson answered a question of Councilman Hammond that the average fee for manufacturers, processors and wholesalers throughout the state was \$200-\$250. Some cities have a fee of \$1.00 per employee with a ceiling on the total annual fee. Out of the 38 major California Cities, 18 use the average number of employees as a license fee basis. A number of the cities which have the gross receipt method of taxation provide in their ordinances that the tax on gross receipts only applies to the deliveries within the city.

Councilman Hammond stated that in conversing with a number of local manufacturers, processors and wholesalers, the average number of employees basis was most popular.

Mr. Anderson pointed out most of these operators objected to divulging their gross receipts to anybody and this was one of the strongest arguments for the employee basis of licensing.

Councilman Hammond contended that this was not justifiable since there were so many other tax agencies which required this information. He pointed out that the city could take the average number of employees of the various firms and achieve the same income as under the bracketed proposal for gross receipts. The flat bracketed rate, he contended, would be much simpler to administrate.

Mr. Anderson considered that the average number of employee basis would be much easier to administrate. He stated that the operators generally favored this type of taxation over the other and it would be easier from the city's standpoint on this basis, it was simpler to check their records since they already made a monthly report to the state on the number of employees.

Mayor Marks pointed out the proposed ordinance (section b, page 19) does exempt certain interstate commerce operations.

Mr. Anderson asked the City Attorney---if this bracket was imposed upon manufacturers, would it be made very clear that interstate commerce will not be included in gross receipts.

The City Attorney stated that he would draft the ordinance as instructed by the Council. He pointed out that Section 6-1.222(b) of the proposed ordinance does not exempt all interstate commerce operations but only when a burden would be cast upon the right to engage in interstate commerce.

Mayor Marks assured him that the Council's decisions would be spelled out very clearly.

Mr. Harlie stated that as a matter of policy the milk industries did not want to start a new type of taxation on gross revenue but they did not object to paying their portion of the license fees to operate the city. A flat fee or an average number of employees basis is favored by the industry.

#### MOTION

That the staff be requested to bring in a report to the Council on a rate figured on the average number of employees for wholesalers, processors, and manufacturers that would raise approximately the same amount as was proposed by the bracketed schedule with a maximum fee of \$250 and that the report also be broken down to exclude wholesalers.

Moved by Hammond Seconded by Anderson Unanimously carried

Council Adams stated that he would like to see a little more of a review on the whole problem as it was studied earlier or some of the advantages or disadvantages brought into it because this would all have a bearing on the problem.

The Council agreed that the information on the average number of employees previously obtained from the wholesalers, processors and manufacturers would be current enough to make the study requested by the Council.

#### Wholesale Outside Trucks

#### MOTION

That a fee of \$30 per year and \$15 per year for each additional truck be established

Moved by Hammond Seconded by Arata Unanimously carried

At the suggestion of Mr. Anderson, the City Manager agreed to review a proposal to establish the license on a semi-annual basis instead of a quarterly basis.

Sec. 6-1.221 (Page 18) subsection b Transportation Service. Mr. Anderson contended that two interpretations could be given to the wording, 1) as applied to those people who are in the business of hauling for hire and 2) as applied to those persons who might deliver commodities purchased elsewhere and where it is purely a matter of delivery.

Paragraph (c) of the same section, he stated should be given further thought in relation to the tax of \$20 per quarter for the first vehicle and \$10 for each additional vehicle. It may be that there are some services that come into the city, manufacturers and processors, which

should not be put under that category. This section was first suggested by people in the dry cleaning business, who were operating in competition to the local operators. When this is expanded to the occasional operator of services other than laundry and dry cleaning, it should be given further thought.

The City Attorney pointed out that in order to conduct a business there must be a continuing activity and one isolated delivery would not constitute doing business.

Mr. Anderson stated that the important thing to consider was to segregate the service industries and those that are rendering a type of service to the merchants and wholesalers which is not clearly wholesale but is a service.

The Council agreed that Mr. Anderson was to assist Mr. Bird in clearing out these ambiguities in the wording of these sections.

Section 6-1.217--Peddling or selling of foodstuff, Page 16 of ordinance. Mr. Hardie objected to the term in subsection (1) of "peddling or selling of foodstuffs, farm produce, bakery products, dairy products, etc." on the basis that historically dairy products have been excluded from the term "peddlers", and resented being included in this category. He requested that another section be included in the ordinance dealing with milk and milk products. All of the cities in the immediate area will follow Modesto's lead and if this operation is put under the peddling license, they would automatically follow suit. While there are no outside deliveries in the city at present, he stated, they would like to have a low license on milk and milk deliveries, because if it is placed in a high bracket immediately other cities will increase their license.

The City Manager suggested that this point be checked out at staff level in order to save the Council's time. Mr. Hardie was asked to work with the staff. Mayor Marks asked that the staff report further to the Council on this matter.

#### Brokers, other than commission

The Finance Director noted that a flat rate had not yet been established and would be after the wholesale, manufacturer and processors was resolved so that a true ratio could be set.

#### Public Utilities

The City Attorney stated that the public utilities rate could not be established until after the lowest rate for wholesalers, manufacturers and processors was determined because it is limited by law.

#### MOTION

That those public utilities which pay the city a franchise tax should be exempt from the business license tax.

Moved by Hammond      Seconded by Arata      Unanimously carried

#### MOTION

That the business license ordinance specifically provide that irrigation districts are not subject to the business license tax until such time as the laws are changed.

Moved by Hammond      Seconded by Arata      Unanimously carried

## MOTION

That the Council committee be relieved of its assignment of reporting on the Modesto Irrigation District franchise tax.

Moved by Adams      Seconded by Hammond      Unanimously carried

Mayor Marks declared that the informal hearing on the business license ordinance was closed.

Councilman Merrill left the Council meeting at this time.

FINAL ADOPTION OF ORDINANCE NO. 229-C.S. CITATION PROCEDURE 10-57

ORDINANCE NO. 229-C.S. entitled

"AN ORDINANCE ADDING CHAPTER 5 ENTITLED "CITATION PROCEDURE" TO TITLE I OF THE MODESTO MUNICIPAL CODE",

having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Anderson      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill and Robinson

INTRODUCTION OF ORDINANCE GRANTING FRANCHISE TO GEORGE & GLADYS BUMGARDNER TO OPERATE A WATER COMPANY 10-60

ORDINANCE NO. 230-C.S. entitled

"AN ORDINANCE OF THE CITY OF MODESTO GRANTING A FRANCHISE TO OPERATE A WATER COMPANY WITHIN THE CITY TO GEORGE AND GLADYS BUMGARDNER, HUSBAND AND WIFE, DOING BUSINESS AS GEORGE BUMGARDNER WATER COMPANY"

was introduced and ordered printed and published as required by the Charter.

Moved by Anderson      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill, Robinson

AUTHORIZE PAYMENT FOR FIRE PUMPER RECEIVED FROM P.E. VAN PELT 10-67

The City Manager recommended that the claim of P. E. Van Pelt Inc. of \$26,890.72 for a Van Pelt Diamond T. Pumper truck, less \$250 for defective bumper, be approved for payment.

RESOLUTION NO. 58-73

A RESOLUTION APPROVING CLAIM OF P. E. VAN PELT, INC. AND AUTHORIZE PAYMENT FOR FIRE PUMPER

Introduced by Anderson      Seconded by Mayor Marks

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill, Robinson

ORDINANCE APPROVING AGREEMENT WITH JAMES & HAZEL HENNESSY FOR PURCHASE OF PROPERTY FOR FIRE STATION SITE 10-70

ORDINANCE NO. 231-C.S. entitled

**"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM JAMES HENNESSEY AND HAZEL HENNESSEY "**

was introduced and ordered printed and published as required by the Charter.

Moved by Anderson      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill, Robinson

CLEAR PROCEDURE FOR PREPARATION OF PLANS FOR NEW FIRE STATION 10-81

The City Manager reported that the staff wished to clear with the Council the matter of preparation of plans and specifications by the city staff or outside help for the new fire station to be located on Orangeburg Avenue.

The Director of Public Works estimated that it would take approximately 3 months for the staff to prepare detailed plans and specifications so that bids could be called for.

The Council discussed the possibility of developing a standard set of plans for fire stations which could be used each time a new station was built. The Council indicated that a further report should be submitted by the City Manager on 1) the possibility/the city staff preparing the plans and specifications and 2) the cost of "farming out the work" and 3) degree of urgency of completion.

APPROVE AGREEMENT FOR WATER STUDY IN CITY 10-105

RESOLUTION NO. 58-74

**A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND WATERS, RUTH AND GOING, CONSULTING ENGINEERS, FOR A WATER STUDY AND FEASIBILITY REPORT**

Introduced by Mayor Marks      Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill, Robinson

APPOINTMENTS TO BOARD OF PLUMBING EXAMINERS AND BOARD OF LIBRARY TRUSTEES 10-110

RESOLUTION NO. 58-75

**A RESOLUTION REAPPOINTING E. W. HUTCHINSON A MEMBER OF THE BOARD OF PLUMBING EXAMINERS**

Introduced by Hammond      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None      Absent: Merrill, Robinson

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## RESOLUTION NO. 58-76

A RESOLUTION APPOINTING MEMBER OF THE BOARD OF LIBRARY TRUSTEES JACK R. JONES

Introduced by Anderson                      Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Merrill, Robinson

## MOTION

That Mayor Marks be authorized on behalf of the Council to write a letter of appreciation to John Gorman who had served on the Board of Library Trustees and Board of Zoning Adjustment and to send a certificate of merit.

Moved by Arata      Seconded by Anderson      Unanimously carried

The City Manager suggested that a letter of appreciation also be sent by Mayor Marks to those persons who had agreed to be reappointed for another four year term on various boards and commissions. The Council agreed to this suggestion.

PROGRESS REPORT ON PLANS FOR DEMOLITION OF OLD HOTEL MODESTO BUILDING 11-03

The City Manager reported that certain matters relating to the plans for demolition of the old Modesto Hotel Building needed to be cleared with the Council before bids were called for.

The Director of Public Works reported that it was planned to present the plans and specifications for approval and ask for authorization to call for bids at the next Council meeting. He reported that it would be necessary to set aside approximately one half of the present parking lot next to the building, for operating and storage areas for the contractor because the demolishing was going to have to take place substantially from that side. Also one-third of the street area (11th Street) will be blocked and it is not proposed for the contractor to provide a walk-way on 11th Street because of the low pedestrian density and cost involved to the city. It will also be necessary to provide for closing of the alley during certain hours during the day. Because of the use of the parking area it will be necessary to provide for two way traffic in the alley instead of one-way to provide access for the merchants and those parkers using the balance of the parking lot. The disposal of the material, he stated, is another problem. It is presently being proposed that it be stock piled down at the sewage treatment plant for purposes of riprapping as the need comes up during the years. If the Council agrees with this suggestion, he pointed out, it should be kept in mind that there will be a rather unsightly pile of this broken up rubble at the plant for sometime to come. Otherwise there would be a problem of providing a site for the contractor to dispose of it or pay him an additional cost to dispose of it somewhere else.

Mayor Marks considered that there was no other alternative and the Council recognized that the staff would have to work very closely on the project and do it with a minimum of public inconvenience and still as economically as possible.

Mr. Ray stated that it was proposed to call for bids to be opened on March 21, which would allow time for the contractor to execute the contract and get his bonds prior to the April 15 deadline for the Western Union Co. to move from the building.

The time for completion will reflect in the economy of the bids received, he stated, and it is planned to establish a completion date to coincide with the completion date set by the Architect on the final plans and specifications for the new city hall.

The staff was authorized to send a 30 day notice of removal to the Junior Achievement organization presently leasing a portion of the building.

Mr. Ray reported it was proposed to require the contractor of demolition to leave the walls on the alley and parking lot side approximately 6 feet high so that it will not be necessary to build a fence for protection. As soon as the demolition work is completed, he stated, the parking lot could be reopened for public use, until construction is started on the new building. The removal of the balance of the walls left by the demolition contractor will be part of the city hall construction contract. The basement floor will also be left.

No objections were offered by the Council members and the staff was asked to proceed as rapidly as possible on the city hall project.

Mr. Ray answered a Council question---the approximate completion job on the demolition would be August 1. The City Manager stated that this date would be checked out so that the work will be completed before any start on the main construction.

AUTHORIZE PAYMENT TO ARCHITECT MILTON PFLUEGER FOR PROGRESS WORK ON CITY HALL AND OTHER CITY HALL SITES 11-82

Statements received from Architect Milton T. Pflueger of \$20,076 for preliminary plans and specifications for new city hall and \$4000 for extra work done in connection with proposed civic center site and 15th and I Streets sites were presented for Council consideration.

RESOLUTION NO. 58-77

A RESOLUTION APPROVING CLAIMS OF MILTON T. PFLUEGER AND AUTHORIZE PAYMENT OF \$24,076 FOR PRELIMINARY PLANS AND SPECIFICATIONS AND CIVIC CENTER STUDIES

Introduced by Mayor Marks

Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None

Absent: Merrill, Robinson

REPORT ON PROPOSED TAXICAB ORDINANCE 11-116

The City Manager reported that the proposed taxicab ordinance was now ready for consideration by the Council and the taxicab operators. He pointed out that the new ordinance provided that the taxicab stands would be established by the administrative staff instead of the Council, in accordance with the previous direction. This will be tied in with the traffic ordinance. He suggested that the Council set a time for public hearing on this ordinance and after this hearing a time be set for a public hearing on the traffic ordinance which will possibly be ready for distribution before the next Council meeting.

MOTION

That the date of March 12 at 8:00 P.M. be set as the time for the public hearing on the proposed taxicab ordinance.

Moved by Anderson Seconded by Mayor Marks Unanimously carried

ESTABLISH LOADING ZONES ON SCENIC DRIVE 12-20

## RESOLUTION NO. 58-78

A RESOLUTION ESTABLISHING PASSENGER LOADING ZONES ON THE NORTH SIDE OF SCENIC DRIVE WEST OF HIGH STREET IN THE CITY OF MODESTO

Introduced by Anderson      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Merrill, Robinson

ESTABLISH PARKING RATES FOR OFF-STREET PARKING FACILITIES 12-25

## RESOLUTION NO. 58-79

A RESOLUTION ESTABLISHING AND FIXING PARKING RATES AND CHARGES FOR USE OF MUNICIPAL OFF-STREET PARKING FACILITIES IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 58-60

Introduced by Hammond              Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Merrill, Robinson

GRANT REQUEST OF MODESTO RACQUET CLUB FOR REVOCABLE PERMIT TO BUILD FENCE ENCRANCHING ON STREET RIGHT OF WAY 12-25

The City Manager reported receipt of a request from the Modesto Racquet Club for a revocable permit to build a fence which would encroach on a projected extension of Briggsmore Avenue. The date of improvement of the dedicated area as a street is uncertain, he stated. The fence height will meet the code requirements.

## RESOLUTION NO. 58-80

A RESOLUTION GRANTING A REVOCABLE PERMIT TO THE MODESTO RACQUET CLUB FOR THE INSTALLATION OF A FENCE TO BE LOCATED IN THE PUBLIC RIGHT OF WAY ON THE SOUTH SIDE OF THE CLUB PROPERTY.

Introduced by Anderson      Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Merrill, Robinson

Conditions approving the revocable permit were outlined in detail by the City Attorney and approved by the Council.

APPROVE FINAL MAP OF ULRICH SUBDIVISION AND AUTHORIZE EXECUTION OF AGREEMENT RELATING TO IMPROVEMENTS 12-87

The City Manager presented for Council approval final map of the Ulrich Subdivision, which he reported was in order and met all the requirements of the subdivision regulations.

A question raised by the Council related to the lack of an alley. Director of Planning Sneath reported that the subdivider, Gladys L. Ulrich had entered into an agreement with the Modesto Irrigation District to install the poles in a right of way inside the commercial property located in back of the subdivision.

F. E. O'Brien, 1233 Mills Avenue, appeared in protest to the Council approval of the final map because there was not any alley in the proposed subdivision. He reviewed the previous efforts of the subdivider to obtain approval of the Planning Commission by closing a portion of Mills Avenue which had been unsuccessful. He considered since the subdivider also owned the commercial property in rear of the subdivision that she should provide an alley.

The City Attorney pointed out that the provisions of the Municipal Code relating to subdivisions, which follow the State Subdivision Map Act, provide that if the City Engineer certifies the map and finds it in accordance with the tentative map approved by the Planning Commission and other code provisions have been provided for that the Council must approve the final map. This gives the subdivider protection, after the tentative map is approved, so that he knows he can proceed on the basis approved by the Commission.

The Council questioned the procedure for approving tentative and final maps since it prevented the Council from hearing any protests by the general public.

The City Manager pointed out that the procedure under subdivisions is that the City Council sets certain standards by ordinances and presents them to the Planning Commission for guidance in approving subdivisions. The preliminary map is approved by the Commission and then the subdivider can proceed with full confidence. Answering a Council question, the City Manager pointed out that the Council had not changed its requirements to provide that alleys must be included in all subdivisions.

Councilman Anderson asked that the City Attorney be authorized to prepare the necessary documents to provide that the preliminary plan be presented to the Council for approval.

The City Attorney stated that this would be impossible because the subdivision map act of the State of California is held to be controlling in his opinion and it provides for procedure. He stated that he could check out the regulations further. He suggested that the Commission might send the Council a complimentary copy of the preliminary map of each subdivision for consideration.

Councilman Anderson suggested that the Commission also advise the Council of its proposed action on the maps and when the hearing is to be held prior to any action.

The City Manager stated that if the Council requests this type of notice that it would be made available.

Councilman Anderson stated that he was referring to a specific instance similar to the one now under discussion and not every subdivision action.

The City Manager pointed out that there were usually problems on every subdivision and the Commission spends many hours working on these subdivision maps. This work was assigned to the Commission but if the Council wishes to have alleys in every subdivision the ordinance could be amended.

Planning Director Smeath at this point in the discussion outlined in detail the problems which had occurred in the Ulrich subdivision which had started in September, 1957.

The City Manager suggested to the Council that before it decided what it was going to do about alleys from this single instance that it keep in mind that the Commission had been studying this problem for several years and would make a recommendation to the Council for consideration.

Mr. Smeath stated that all the states in the United States placed the approval of designs of subdivisions with the Planning Commissions and not in legislative bodies. Every subdivision is studied thoroughly by the planning staff and then by the Commission before approval. This subdivision was considered in this manner, he stated. There have been some people who have protested this subdivision from the day it was proposed. The reason for the first proposal for a reduction in Mills Street was that the staff proposed the reduction to the Commission. The Department's recommendation is that all streets that are not needed and all areas in streets which are not necessary for traffic purposes go back under private tax rolls. The traffic is very low on this street and a 50' width is recommended for minor local streets, as provided in the subdivision ordinance. He pointed out the difficulties involved in developing the remaining area after the zoning of the adjoining commercial area. In order to improve the area it has become necessary to remove some buildings to include 10 feet in back which is zoned commercial. Mr. Ray reported on the method proposed to be used for city services.

Mr. O'Brien raised some questions on the time limit established for the commercial zoning on the area adjacent to the subdivision. He was asked to check with the City Clerk's office on the terms of the agreement for the zoning of the area. The terms and conditions of the resolution approving the final map were outlined by the City Attorney.

**RESOLUTION NO. 58-81**

**A RESOLUTION APPROVING THE FINAL MAP OF THE ULRICH SUBDIVISION**

Introduced by Hammond                      Seconded by Arata

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Merrill, Robinson

**AUTHORIZE SIGNATORY OFFICIALS TO SIGN FOR AND ACCEPT POSSESSION OF FEDERAL SURPLUS PROPERTY ON BEHALF OF THE CITY 14-80**

**RESOLUTION NO. 58-82**

**A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE ASSISTANT CITY MANAGER OF THE CITY OF MODESTO TO SIGN FOR AND ACCEPT SURPLUS FEDERAL PROPERTY AND RESCINDING RESOLUTION NO. 58-37**

Introduced by Adams                      Seconded by Hammond

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Merrill, Robinson

**REPORT ON AWARD TO CITY FOR TENNIS PROGRAM 14-85**

Director of Parks and Recreation Lloyd Lowrey reported that the United States Lawn Tennis Association had conducted a nation wide survey of junior tennis development throughout the country. City of Modesto was awarded the third prize nation-wide for its development of this program. The award was made possible largely by the efforts of Albert E. Schoenfeld and Ken Waltz of the city staff.

## MOTION

That the Council authorize the Mayor to write a letter of appreciation to those who were responsible for this award.

Moved by Hammond Seconded by Arata Unanimously carried

REPORT ON TREE MAINTENANCE 14-96

Mr. Lawrey reported on the tree removal program. He displayed specimens of tree trunks which had been removed from Graceada Park and Elk Park which were completely hollow with little sound wood remaining for support. Many persons object to the removal of trees because to all outward appearances the trees are still in good condition. He reported that the crews were keeping up with this type of thing at this point but if they continued to run into it, it might create a terrific problem. This condition exists in approximately 30% of the trees which are removed. This condition is primarily due to improper trimming. He reported that the specimens would be on display at the Library for a few days.

REPORT ON LETTER FROM CITY OF SAN FRANCISCO RE: TELEPHONE FRANCHISE 15-01

The City Attorney reported receipt of a letter from the City Attorney of San Francisco advising that the Pacific Telephone & Telegraph Company has filed a claim for declaratory relief against the County of San Francisco. The Company is litigating about the right of the City of San Francisco to require a franchise to use the public streets and places for telephone purposes. San Francisco adopted a charter prior to 1905. Under the existing decisions of the courts there are still telephone franchise rights possessed by those cities which had charters prior to 1906 when the state legislation was amended to add a section to the civil code that was later held to give the telephone companies a constitutional free franchise to use public streets. The City of San Francisco has asked that this letter be brought to the attention of the City Council and request its reaction on whether or not a "friend of the court" brief should be filed along with this proceedings. Since Modesto did not adopt its charter until 1911, it does not appear that its rights would be affected in this proceedings. He pointed out that the League of California Cities had a committee which was studying the possibility of sponsoring constitutional amendments to remedy this situation. He recommended to the Council that it would not justify the expense and there would be no reason for the city to file an Amicus Curiae brief in this case.

## MOTION

That the City Attorney be authorized to advise the San Francisco Court accordingly.

Moved by Adams Seconded by Anderson Unanimously carried

APPROVE APPROPRIATION TRANSFER OF FUNDS FOR SUGGESTION SYSTEM 15-20

## RESOLUTION NO. 58-83

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$375 FROM MISCELLANEOUS UNCLASSIFIED TO PERSONNEL-SUGGESTION SYSTEM FOR CONSISTENCY IN ADMINISTRATION OF PERSONNEL BUDGET

Introduced by Arata Seconded by Adams

Ayes: Adams, Anderson, Arata, Hammond, Mayor Marks

Noes: None Absent: Merrill, Robinson

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REPORT ON PROPOSED CHANGES IN MUNICIPAL CODE REGARDING WATER CHANGES 15-37

The City Manager reported that experience indicates that the installation of meters on filtered swimming pools was both difficult and costly to administer. The staff is recommending that the regulations be amended to provide that only those residential swimming pools without filters be metered.

Mr. Elmer Bain, 1110 Princeton Avenue, spoke on behalf of this recommendation.

The City Manager stated that this recommendation was made on the basis that the owner would pay the regular flat rate on the total area of their lot. No Council objections were voiced on the proposed change.

The report on a proposed change in the Municipal Code to permit special water service fees for buildings under construction was held over for further clearing.

REPORT ON STUDY FOR RESPONSIBILITY FOR MAJOR STREETS 15-76

The City Manager asked that in view of the late hour that this matter be held over until the next meeting.

SET DATE FOR YOUTH IN GOVERNMENT DAY 15-81

## MOTION

That the date of May 21, 1958 be set as the date for Youth in Government Day.

Moved by Hammond      Seconded by Anderson      Unanimously carried

ADJOURNMENT

## MOTION

That this Council meeting now in session be adjourned.

Moved by Hammond      Seconded by Arata      Unanimously carried

The meeting was adjourned at 6:45 P.M.

ATTEST:

  
City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Anderson, Arata, Hammond, Mayor Marks

Absent: Councilmen Adams, Merrill, Robinson

The pledge of allegiance to the flag was given by all those present.

Rev. Dodds Bunch, pastor of the Centenary Methodist Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the adjourned meetings of February 25 and 26, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM CALIFORNIA HIGHWAY COMMISSION REGARDING FREEWAY ROUTE PROCEDURE 1-20

A letter was read from the California Highway Commission relating to its freeway route adoption procedure on location or major relocation of freeways on the State Highway System. A copy of the procedural resolution adopted by the Commission on February 26, 1958 was also noted and filed. Copies of the communication had previously been distributed to the Council members.

#### LETTERS FROM LABOR ORGANIZATION REGARDING URGING PROMPT ACTION ON CONSTRUCTION OF THE CITY HALL 1-30

Letters, together with copies of resolutions adopted by the Building & Construction Trades Council of Stanislaus County and the Stanislaus County Central Labor Council, urging prompt action on the construction of the City Hall to create jobs for the unemployed, were noted by the Council.

The City Manager reported that the staff was working very closely with the Architect in the preparation of the final plans. The earliest possible time these plans can be completed, he stated, is estimated as July 1. The demolition of the Hotel Modesto Building will be completed by August 1, which leaves 30 days to call for bids for the construction of the new building.

Councilman Arata considered that the city should do everything possible to rush the project along to create new employment and to obtain a better bid prior to the start of large federal public works projects.

The City Manager answered a question raised by Councilman Anderson--- that the construction of the garage and the city hall would be one project and bids would be called for the complete construction at one time. The City Manager reported that he had written to the County asking for an approximate time they would be able to move out of the MID building.

The Council instructed the staff to proceed as fast and as economically as possible.

## MOTION

That the Mayor, on behalf of the Council, notify the labor organizations who had written to the Council about the city hall, that the city was proceeding as rapidly as possible and that it was approving plans and specifications and call for bid on the demolition of the old Hotel Modesto Building at once which would furnish additional employment.

Introduced by Arata    Seconded by Hammond    Unanimously carried

APPROVE DISPLAY OF BANNER BY MODESTO REDS 1-105

With the unanimous consent of the Council, Jerry Pepelis, Manager of the Modesto Reds, was permitted to present a matter which had not been included on the agenda. He asked 1) that the Ball Club be permitted to display a banner across the city streets at 10th and J Streets; 2) display 20 signs on city electroliers to create baseball interest, announcing the opening of the California League; 3) that the Modesto Community Athletic Association be included in the list of organizations which would be automatically granted permit to display banners across the city streets.

The Council indicated its approval of adding the ball club to this group.

## RESOLUTION NO. 58-84

A RESOLUTION ESTABLISHING POLICY ON GRANTING OF PERMITS TO DISPLAY BANNERS AND DECORATIONS OVER AND ACROSS STREETS IN THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 56-391

Introduced by Arata    Seconded by Anderson

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

The City Manager advised Mr. Pepelis that he would need to get a permit from the City Manager, and also suggested the possibility of the Club using the city's banner if further check proved it could be done. No objections were offered.

The City Attorney stated that the displaying of signs on the city light poles was prohibited by the Municipal Code.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR DEMOLISHING THE HOTEL MODESTO BUILDING 2-05

The City Manager reported that it was now proposed to use a little less than one-half of the parking lot adjoining the Hotel Modesto building during the demolition project, which would permit a rearrangement of the lot to permit 12 additional parking spaces. The demolition is scheduled for completion by August 1, and bids are to be opened on March 31 at 2:00 P.M.

## RESOLUTION NO. 58-85

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR DEMOLITION OF HOTEL MODESTO 11th AND H STREETS

Introduced by Anderson    Seconded by Hammond

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

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FINAL ADOPTION OF ORDINANCE NO. 230-C.S. WATER FRANCHISE TO BUMGARDNER WATER COMPANY 2-16

## ORDINANCE NO. 230-C.S. entitled

"AN ORDINANCE OF THE CITY OF MODESTO GRANTING A FRANCHISE TO OPERATE A WATER COMPANY WITHIN THE CITY TO GEORGE AND GLADYS BUMGARDNER, HUSBAND AND WIFE, DOING BUSINESS AS GEORGE BUMGARDNER WATER COMPANY"

introduced on March 5, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata                      Seconded by Anderson

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

FINAL ADOPTION OF ORDINANCE NO. 231-C.S. AUTHORIZE PURCHASE OF JAMES HENNESSEY PROPERTY 2-17

## ORDINANCE NO. 231-C.S. entitled

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM JAMES HENNESSEY AND HAZEL HENNESSEY"

introduced on March 5, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Anderson                      Seconded by Hammond

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

AUTHORIZE FINAL PAYMENT OF \$600 TO MODESTO BAND INC. 2-20

## MOTION

That the payment of \$600 to the Modesto Band Inc., being balance of the amount budgeted in the 1957-58 fiscal year, be approved

Moved by Arata                      Seconded by Anderson                      Unanimously carried

The Council discussed the possibility of making this payment without Council action since it was a budgeted item and the City Manager was asked to check out the matter.

SET DATE FOR HEARING ON PROPOSED ANNEXATION OF THE PARADISE CENTER ADDITION 2-37

Resolution No. 434 adopted by the Planning Commission on March 4, 1958, recommending to the Council the commencement of annexation proceedings for the annexation of the Paradise Center Addition was noted by the Council.

The City Clerk set the 23rd day of April, 1958 at 8:00 P.M. in the Council Chambers as the time and place for the public hearing on the proposed annexation.

## RESOLUTION NO. 58-86

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE PARADISE CENTER ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

3-12-58 Page 3

Introduced by Hammond      Seconded by Anderson

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

APPROVE AGREEMENT WITH FRONTIS ASBILL FOR RENTAL OF WALNUT ORCHARD ON FORMER BOWEN-HAGEDORN PROPERTY IN THE MODESTO CITY-COUNTY AIRPORT 2-50

RESOLUTION NO. 58-87

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND FRONTIS T. ASBILL FOR TWENTY ACRES OF WALNUT ORCHARD AT CITY-COUNTY AIRPORT PROPERTY

Introduced by Arata              Seconded by Hammond

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

AUTHORIZE PAYMENT TO COUNTY FOR MILK INSPECTION FEES COLLECTED BY THE CITY FROM THE STATE 2-58

RESOLUTION NO. 58-88

A RESOLUTION APPROVING CLAIM OF STANISLAUS COUNTY FOR MILK INSPECTION FEES COLLECTED BY THE CITY OF MODESTO AND AUTHORIZING PAYMENT OF \$5,742.76

Introduced by Anderson          Seconded by Hammond

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

REPORT ON PROPOSED NEW TRAFFIC ORDINANCE 1-60

The City Manager reported on the progress being made in the final drafting of the traffic ordinance, copies of which would be distributed shortly to the Council members for study.

ESTABLISH STOP SIGNS ON FIFTEENTH STREET AT G STREET 2-80

RESOLUTION NO. 58-89

A RESOLUTION ESTABLISHING STOP SIGNS ON FIFTEENTH STREET AT ITS INTERSECTION WITH G STREET IN THE CITY OF MODESTO

Introduced by Anderson          Seconded by Hammond

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

HEARING ON PROPOSED TAXICAB ORDINANCE 2-83

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the public hearing on the proposed new ordinance relating to taxicabs.

The City Manager reported that copies of the proposed changes had been sent to the Council members and Taxicab operators.

The City Attorney reported on two additional changes which were being proposed 1) that section relating to suspension and revocation of permits be

amended to provide that the Council may suspend or revoke a permit if the owner fails to pay any of the fees and payments required by the Code; 2) that the section relating to insurance requirements not be amended, but remain as is to require that the policy be filed with the City Clerk.

Joe Sequeira, operating the Joe's Taxi, indicated approval of the proposed ordinance.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. None were made.

Mayor Marks declared the hearing closed.

ORDINANCE NO. 232-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-6.202, 4-6.205, 4-6.211, 4-6.212, 4-6.213, 4-6.214, 4-6.216, 4-6.301, 4-6.402, 4-6.403, 4-6.501, 4-6.502, 4-6.701, 4-6.702, 4-6.703, 4-6.704, 4-6.707, 4-6.708, 4-6.801, 4-6.802, AND ADDING SECTION 4-6.206.1 TO CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE, RELATING TO TAXICABS"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata           Seconded by Anderson

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None               Absent: Adams, Merrill, Robinson

FURTHER CONSIDERATION OF PROPOSED BUSINESS LICENSE ORDINANCE 2-110

Music teachers and others

The City Manager reported on the directive of the Council, that the staff prepare a proposal to place all cultural and educational activities on a basis where a flat \$10 annual license fee would be charged. He asked that the Council consider as a possible solution for these types of activities--- that each person carrying on a business of any sort, any place, who does a gross receipts volume of less than \$1000 annually, be licensed on a flat \$10 annual fee, except those special categories enumerated in the ordinance. These persons would be required to certify that their income was less than \$1000 and would be required to report in the normal manner and if it exceeded this amount they would be subject to the other type of license fee.

Bernice Rader, representing the Music Teacher's Association of California asked that the minimum amount of gross receipts be increased to \$1500.

MOTION

That the staff be authorized to draft a provision that would provide generally for a \$10 annual registration fee for those persons who do not have gross receipts of over \$1200 per year, recognizing that there will be exemptions in special categories.

Moved by Arata           Seconded by Anderson   Unanimously carried

Report on business license revision-Number of employees basis

Copies of this report and schedules ordered by the Council, were distributed to the members and read by the City Manager.

Mayor Marks reported he had contacted several manufacturers during the past week and they agreed that if the gross receipts ceiling was set at \$250, it would meet with their approval. They would not object to being

"bracketed" as long as they were reasonable low and a maximum of \$250 was established. Councilman Arata stated that if it would be possible the ordinance should be drafted to provide that if the operators paid the maximum fee it would be unnecessary to show the number of employees.

The City Attorney stated that a concern would not have to reveal its figures but could state "over whatever the maximum is and pay the \$250".

The City Manager stated that this would not accomplish the proposed purpose, and the person would be filing a false report.

At this point Councilman Hammond asked that the Council make a decision on whether it would approve the gross receipt basis or the average number of employee basis before further discussion was held.

Councilman Arata asked if a person could report that he had over 151 employees (maximum in schedule) and pay the \$250 without giving a detailed report on the number of employees.

The City Manager stated that if a concern had more than 151 employees and wished to report in this manner there would be no problem but if he only had 148 he would be filing a false report. However, if the Council agrees that the ordinance provide that when a concern pays the maximum that it will not be necessary to report the number it would be permissible. This seemed to be generally agreeable with the Council.

The Director of Finance reviewed the brackets shown in the schedule for both the Wholesalers and the Processors and Manufacturers.

The City Attorney pointed out that in using these figures the Director of Finance has used a different definition for "employee" than that which is usually used in these ordinances based on the average number of employees. Usually the owner, operator, manager, himself is considered as an employee by definition.

The Director of Finance stated that a number of businesses in the city reported that they had no employees, and in that case there should be a bracket for "0".

The City Attorney read the definition of an employee included in the League's report. Under this definition the employer would be considered an employee, he stated.

The Director of Finance stated that under this definition it would change the income figured from the bracket system reported. The City Manager stated that this problem of definition of employee could be worked out satisfactorily by the staff if the Council would approve the basic policy---gross receipts vs average number of employees.

#### MOTION

That the Council consider the average number of employee basis rather than gross receipt basis for wholesalers, manufacturers and processors and that the staff be authorized to work out a definition of "employee" and the ways and means of the most economical method for the person reporting.

Moved by Hammond      Seconded by Anderson      Unanimously carried

Councilman Hammond considered that there should be one bracket used for the wholesalers, manufacturers and processors instead of the two types reported by the Director of Finance.

The City Manager pointed out that the present regulations permitted a person the option of paying a mill license on his wholesale business along with his report on his retail business and not taking out a wholesale license. He thought it would be advisable to include this provision in the new ordinance.

The Council agreed that if a man had a small amount of wholesale business and wanted to include it in his retail business it should be permissible and directed the staff to work out this problem.

To a question from Councilman Hammond, Director of Finance Bird reported on the justifications for separating the schedules for the wholesalers from the schedules for the processors and manufacturers---normally the wholesalers use a fewer number of employees than manufacturers for the same volume of business.

Councilman Hammond suggested that the rate per employee starting in the bracket of 35 employees be raised higher. The Director of Finance agreed that this would be the approach if all three classifications were combined.

The Council agreed that the three classifications should be combined but the rates in the lower brackets should be raised.

The City Manager pointed out that this would throw more of the weight upon the manufacturers and processors and less onto the wholesalers.

The Council asked that the staff prepare a schedule report combining the 3 classifications along the lines discussed for Council approval.

Mr. P. A. Anderson, representing the Municipal License Tax Association, filed copies of a schedule which he had prepared on "proposed schedule of license taxes application to manufacturers, processors and wholesalers in the Modesto License Tax revision," to give the Council an idea of how an annual license tax based upon the average number of persons could be used in the city. Mayor Marks asked that Mr. Anderson continue to work with the staff on the solution of the rates to be established and the other matters on the ordinance.

Mayor Marks asked that the staff arrange the final rates to be proposed in the schedules to raise approximately \$12,000.

#### MOTION

That manufacturers, processors and wholesalers be placed in the same schedule.

Moved by Hammond Seconded by Anderson Unanimously carried

#### MOTION

That in setting up the rate for these operators that the rates up to 35/40 employees should be on a higher rate, that there be a decreasing charge for the larger number of employees.

Moved by Hammond Seconded by Anderson Unanimously carried.

#### MOTION

That the top limit be set at \$250, and the employer would not have to report the total if they pay the maximum amount.

Moved by Mayor Marks Seconded by Hammond Unanimously carried

The City Manager stated and the Council concurred that the ordinance would be prepared on the basis that a concern could elect to report its wholesale business with its retail business and not be required to have both types of license.

AUTHORIZE REMOVAL OF NO PARKING ZONE ON MILLER AVENUE NEAR LaLOMA 6-70

RESOLUTION NO. 58-90

A RESOLUTION RESCINDING RESOLUTION NO. 56-525 WHICH ESTABLISHED A NO PARKING ZONE ON THE NORTH SIDE OF MILLER AVENUE BETWEEN LaLOMA AND COVENA AVENUES AND RESOLUTION NO. 57-221 WHICH ESTABLISHED A NO PARKING ZONE ON THE SOUTH SIDE OF MILLER AVENUE BETWEEN ROWLAND AVENUE AND LaLOMA AVENUE IN THE CITY OF MODESTO

Introduced by Anderson      Seconded by Mayor Marks

Ayes: Anderson, Arata, Hammond, Mayor Marks

Noes: None                      Absent: Adams, Merrill, Robinson

REPORT ON PROPOSAL FOR TRAFFIC SIGNALS AT NINTH AND P STREETS 6-80

Maps were displayed on the proposed installation of traffic signals at Needham Street and Tully Avenue, which has been approved by the State as a project.

A study is being made, the City Manager reported, on the possible alignment of Kansas Avenue across the tracks to connect with Needham Street. Extended discussions have been held with the Richfield Oil Company, whose station located on the west side of 99 Highway, would be affected in the realignment. At the present time vacant land to the south of the station is available which could be used in relocating the facilities. The company has indicated willingness to relocate its facilities but the discussions so far have not reached precise costs.

The estimated street and utility construction costs would be approximately \$24,000 which would not include the removal or land costs. The City Manager reported that considerable staff time had been spent in this study and more time would be required before a firm report could be presented for Council study. Even if it could be cleared, the City Manager reported, it would not be in this fiscal year's construction. He asked for Council guidance on continuing the project. Members of the Council considered that it would be a logical street realignment.

The City Manager asked for Council approval to proceed on the basis that if it was determined that the project could not be completed in less time than estimated, that the signals already approved by the state be installed.

However, instead of locating the signals on Kansas, Tully, and Needham Streets, it is recommended for better traffic control that the signals be located on P Street instead of Needham with Needham one-way between Nellie and 99 Highway or two-way with no left turn allowed from Needham onto Ninth.

The Director of Parking and Traffic outlined the plans for proposed traffic control at this intersection, P Street, Needham and 99 Highway. This proposal has been presented to the state and approved by the Division of Highways and awaits Council approval, he reported.

The City Manager reported that illegal diagonal parking now being used on P Street would have to be converted to parallel parking. The estimated cost for surfacing P Street to carry the extra traffic would be approximately \$2,000.

## MOTION

That the staff be authorized to proceed on the basis outlined by the City Manager and Director of Parking and Traffic with a further report to be made on the realignment of Kansas and Needham Avenues before a firm commitment is made.

Moved by Anderson Seconded by Mayor Marks Unanimously carried

Matter of Parking on P Street

The City Manager cited a case in Alameda County where illegal parking had been permitted to continue which had resulted in a suit being filed and asked for Council direction on clearing up the illegal diagonal parking now being practiced on P Street. He asked that either diagonal parking be legalized or signs for parallel parking be posted.

The City Attorney pointed out that the lack of curbs and gutters made it difficult to mark off and post signs for parking.

Action was held over until a field inspection of the area under discussion could be made by the members of the Council.

CONSIDER MODIFICATION OF PARKING LOT NEXT TO CITY HALL ON 11TH STREET 8-27

Mr. Garmody reported on available alternatives for the remodeling of the area which would remain of the 11th Street parking lot during the demolition of the Hotel Modesto Building. He recommended that alternative No. 3 which would cost approximately \$1200 be used on the basis that 1) there would be a 2 way driveway, 2) 12 more parking spaces would be available and 3) an additional \$1300 revenue would be received over a period of one year. He believed that there would be no point in making a 2 way alley in back of the lot as previously discussed by the Council.

The City Manager stated that it was proposed to charge one half of the cost to the City Hall and the balance to parking lot expense since it was deriving the revenue, and the city hall was causing the problem. He recommended that alternative No. 3 be approved by the Council.

## MOTION

That the staff be authorized to proceed under alternative No. 3 outlined by the Director of Parking and Traffic at an estimated cost of \$1200.

Moved by Hammond Seconded by Anderson Unanimously carried

REPORT ON STUDY OF RESPONSIBILITY FOR MAJOR STREETS 8-70

Director of Planning Smeath reported that discussions had been held on the desirability of attempting to set the costs of street improvements and the dedication of land more in conformity with the subdivisions relationships to the general public requirements. Where there are major streets which require more width of land or greater development of street improvements than are required for the subdivision but are needed for public major streets, than the costs are thought possibly to be a charge to the public as a whole rather than to the subdivision. A proposed amendment to the subdivision regulations has been prepared by the staff which will be presented to the Planning Commission shortly which suggests several changes, 1) that all streets which are needed for dedication up to 90 feet in width should be dedicated by the subdivider free of charge without charging the city, 2) if it is beyond 90 feet or some other width, that the city would pay the raw land cost of the land over and above 90 feet. He pointed out that there would be very few instances of this type. If there are street improvements required, the

additional cost for paving (thickness or width) over and above that required for a 60 foot collector street, be paid by the city.

The City Manager stated this is only in the study stage and was being reported for Council information and that no action would be necessary at this time unless the Council had some questions or objections.

The City Attorney pointed out that there were some serious legal problems involved which would have to be resolved, before any decisions were made.

APPROVE ATTENDANCE OF CITY ATTORNEY AT CONFERENCE 8-110

MOTION

That the City Attorney be authorized to attend the spring conference of the City Attorneys' Department of the League of California Cities being held in Palo Alto April 23-25.

Moved by Anderson Seconded by Mayor Marks Unanimously carried.

REPORT ON PRESENTATION TO STATE WATER POLLUTION CONTROL BOARD BY CITY MANAGER 9-120

The City Manager reported that he had appeared before the State Water Pollution Control Board in San Francisco last week and asked that consideration be given to additional credit to cities which have helped themselves in the sewage disposal problem. The result of the conference was the adoption of a motion by the Board that its staff be asked to work with the cities to determine what could be proposed which would be workable in this field for the next year.

Some of the members of the Board expressed their concern about the problem of a "bonus for inaction" and indicated that some of the members of Congress had also expressed concern about this matter.

FILING OF FINANCIAL STATEMENT FOR MONTH OF FEBRUARY, 1958

Copies of the financial statement of the city for the month of February, 1958 were distributed to the Council members.

PROCEDURE FOR GETTING MONEY ON AIRPORT 9-15

With the unanimous consent of the Council, the City Manager was granted permission to raise a matter not on the agenda---procedure for getting money back from the Civil Aeronautic Administration on the airport.

MOTION

That the City Manager be authorized to sign and file requests with the C.A.A. for reimbursement of funds advanced for the improvement of the city-county airport.

Moved by Anderson Seconded by Arata Unanimously carried

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Anderson Seconded by Hammond Unanimously carried

ATTEST:

  
City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Merrill, Mayor Marks

Absent: Councilmen: Adams, Anderson, Robinson

Councilman Robinson arrived at 4:07 P.M.

Councilman Adams arrived at 4:08 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Glenn Harmon gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of February 26 and March 5, and the same being available for public inspection and there being no objections, the minutes were approved.

#### REQUEST BY CENTRAL CALIFORNIA ART LEAGUE FOR ALTERING OF FINANCIAL OBLIGATIONS RE: OPERATION OF JOHN MUIR ART GALLERY 1-20

Mrs. Gertrude A. Skupin, President of the Central California Art League, gave a brief report on the activities of the League. She stated that the League pays all necessary obligations for upkeep of the Art Gallery and that funds for this are increasingly more difficult to obtain. She asked the Council to consider two requests from the League which would enable them to use their funds for more art shows: 1) that the City reduce the rental fee for the Gallery, or 2) that the City continue the Art Gallery as a civic enterprise without charging rental to the Art League.

Mayor Marks stated that several of the Council members were on a committee to put the John Muir School as a Service Center on a basis that it would not cost the City anything and that was the basis upon which the lease with the Art League had been negotiated. He stated that there was a fiscal problem involved and asked if there was other space available at the Center.

Mrs. Skupin stated that the organizations that used the Center used it for business offices, and that the Art League used it solely for art shows and exhibits and conducted their business elsewhere. The basis upon which they are asking that the rent be waived is that the Gallery is used strictly for the cultural benefit of the people of Modesto and only benefited the League in that it offered a place to show their work.

Councilman Adams considered that since the Center had only been in operation for about a year that a progress report be made.

#### MOTION

That the Council Committee composed of Councilmen Arata, Hammond and Merrill be reactivated to consider the request of the Central California Art League

Moved by Robinson      Seconded by Hammond      Unanimously carried

LETTER FROM LOUIS J. KROEGER AND ASSOCIATES RE: EXTENSION OF SERVICES 2-12

The City Manager briefed the letter which stated that the services of John J. Schuck, a specialist in insurance evaluation, had been retained by Mr. Kroeger. The letter was ordered filed.

REQUEST FOR PERMIT TO INSTALL SPRINKLER SYSTEM - DR. R. R. RADCLIFF 2-20

Mayor Marks read a letter from Dr. Radcliff requesting permission to install a sprinkler system at 1029 16th Street in the parking right of way.

Director of Public Works Ray reported that this letter request is because permission had been denied by the Building Department since it would create an encroachment in the parking right of way. He considered that if the Council granted this permit that it should contain certain requirements: 1) the installation shall be such as to comply with Section 11-1.11 (n) of the Municipal Code, 2) the permittee to assume all liability in connection with the installation, and agree to hold the City harmless therefore, and 3) in event of violation of conditions imposed by the Municipal Code, the permittee would remove the installation immediately upon request to do so in writing, and 4) the permittee agree to remove the system on 30 day notice by the city.

## RESOLUTION NO. 58-91

A RESOLUTION GRANTING A REVOCABLE PERMIT TO DR. R. R. RADCLIFF FOR THE INSTALLATION OF A SPRINKLER SYSTEM IN THE PARKING RIGHT OF WAY AT 1029 16TH STREET IN THE CITY OF MODESTO

Moved by Hammond                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                              Absent: Anderson

LETTER FROM LEAGUE OF WOMEN VOTERS RE: USE OF TRUCK ON STREET AT 10th AND J FOR REGISTERING VOTERS 2-65

The City Manager briefed the request received from the League of Women Voters for permission to park a moving van on the corner of J and 10th Streets for the purpose of registering voters of Stanislaus County on the following dates: March 29, April 5, and April 10, during the hours from 9:30 A.M. to 5:30 P.M.

## MOTION

That the League of Women Voters be granted permission to park a van on the south side of J Street at Tenth Street on the days specified above for the purpose of registering voters, on the condition that the League contact the Police Chief and Director of Parking & Traffic and make arrangements for parking the van.

Moved by Arata                      Seconded by Adams                      Unanimously carried

LETTER FROM SENATOR THOMAS H. KUCHEL RE: NAVY FACILITIES IN NEWMAN AREA 2-70

Mayor Marks read the letter received from Senator Kuchel regarding the Navy Facilities in the Newman Area attached to which was a letter from J. W. Ailes III, RADM, USN, who stated that this entire proposal is a long range planning concept only and that there is no firm project at the present time for the construction of such a facility.

LETTER FROM THE MODESTO CITY EMPLOYEES' ASSOCIATION RE: CITY PARTICIPATION  
IN GROUP HEALTH INSURANCE 2-85

Mayor Marks read a letter received from Frank Reynolds, Chairman, Health Insurance Committee, requesting that the City of Modesto participate in the group health insurance plan now in effect for the majority of covered employees to the extent of five dollars per employee per month.

G. W. Masonheimer, Assistant City Manager, stated that there were serious complications because there are at the present time two different coverages. The Police and Fire Departments have selected another kind of coverage but through the same company that provides health group insurance for the rest of the city employees. Because of the size of the two groups neither is eligible for a self-administration plan. If there were only one group, the city would be eligible for the plan and would be able to save a minimum of 5% in the premium by just financial administration alone. Administering two plans is confusing to the employees and it is difficult for them to understand sometimes why a particular claim is denied to them and honored for some other employee.

Councilman Hammond considered that these problems would not be solved by city participation and recommended that this discussion be held over until the budget hearing.

Mayor Marks asked if this matter could not be presented in a more simplified manner---stating the problem, cost, facts, and alternatives.

Councilman Hammond stated that he felt the City should not be an agent for handling administrating problems, if they are also going to pay a broker for handling these problems.

City Manager Miller stated that this was a real problem to the City, not only in time but in misunderstanding of the policies. This was not just a problem for the Association but the City must also have a basic understanding because the premiums are deducted from the payroll, which is the city's responsibility.

MOTION

That the matter of group health insurance for city employees be held over to be discussed at the time of budget hearings.

Moved by Hammond      Seconded by Merrill      Unanimously carried

MOTION

That the staff prepare a report which would set forth the estimated cost to the City of such a plan and the benefits which would be gained by the City and employees for consideration by the Council when considering the budget.

Moved by Mayor Marks      Seconded by Hammond      Unanimously carried

INTRODUCE DIRECTOR OF ADVANCE PLANNING 3-75

At this time Mayor Marks introduced to the Council Mr. J. Stanley Ott, the new Director of Advance Planning.

LETTER FROM C. A. ROOKER RE: SALES TAX STUDY 3-78

Mayor Marks read a letter received from C. A. Rooker requesting 1) the Council to direct the city staff to make a complete analysis of the "Wise Report", 2) this staff work in conjunction with members from the County of Stanislaus and other incorporated cities of the County, 3) no

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other taxing agency be brought into consideration, and 4) that this analysis be completed within the next 60 days.

The City Manager recommended that if the city is to expend additional funds on the analysis of this report, that it be only on the basis that the parties concerned are willing to look at the total picture, including the irrigation districts.

Councilman Hammond felt that the City should have some estimate of what the analysis would cost before it was started, and if it would require considerable money and time, the City should return to its previous system of exemptions and forget the analysis. The first step should be to have the staff find out what it is going to cost to get this information. He considered that this matter was too complex to complete in 60 days and still come up with a complete picture of the situation.

City Manager Miller asked if it would be helpful for the staff to actually check out the addresses of the welfare cases, which had been checked on a 10% trial basis for the Wise report. He stated that this could be done in a few days by checking with the County Auditor, and would give the City a clear picture of the degree of error in the report.

Ken Norris, County Taxpayers Association, stated that there should be some basic understanding between the rural and the City people before this problem could be solved. He stated the Taxpayers Ass'n. did not want this matter brought to the point where strong pressure would be placed on the County Board of Supervisors to repeal this ordinance. He estimated the County's revenue to be approximately \$500,000 for this year with a possibility that it might be \$530,000, according to the States estimate.

Mayor Marks pointed out that there were two authorized agencies concerned with this matter in Modesto: the County Board of Supervisors and the City Council, and that it was the feeling of the Board of Supervisors that the cities should not receive less under any division of the proceeds of the county sales tax than were received prior to the adoption of the new tax.

Mr. Norris agreed with the Council that an analysis of the Wise Report would enable everyone to have a clearer picture of the matter. He stated that the Association hopes to see this continued as a source of revenue, and has always considered that because it is a joint venture by this rebate of 7½%, serious thought should be given to joint projects from these funds.

The City Manager pointed out that the original basis upon which the City had agreed to compromise on the sales tax percentage was that funds would be provided for capital projects in the County of general interest.

#### MOTION

That the Council proceed on the basis of complete good faith and good will and that the staff be instructed to investigate and report as soon as possible on that portion of the Wise Report relating to the addresses of the welfare cases.

Moved by Mayor Marks Seconded by Robinson Unanimously carried

The City Manager suggested that the Council indicate its complete willingness to look at any of these matters with any group as long as it was clear that the whole picture be explored.

Councilman Hammond considered that the Council would need all the facts relating to the fiscal studies before a decision could be reached.

## MOTION

That the City Council approve in principle the City Manager's statement dated March 18, 1958, and that the City intends to proceed on the basis that all the people of good faith, who are involved in this matter, would be willing to have the total picture explored and presented as accurately and as clearly as possible.

Moved by Mayor Marks      Seconded by Adams      Unanimously carried

## MOTION

That Mayor Marks be authorized to answer the letter received from the committee in line with the Council's discussions.

Moved by Hammond      Seconded by Robinson      Unanimously carried

LETTER FROM DIVISION OF HIGHWAYS RE: RELOCATION OF U. S. SIGN ROUTE 99  
6-34

The City Manager reported that copies of the letter from the Division of Highways relating to the relocation of U. S. Sign Route 99 had previously been distributed to the Council members. He noted that the staff had not yet had time to check out the maps, graphs and report enclosed with the letter.

## MOTION

That the staff be authorized to study the documents and make a report.

Moved by Adams      Seconded by Robinson      Unanimously carried

GRANT PERMIT TO ENSLEN SCHOOL TO CLOSE STREET FOR FOLK DANCING FESTIVAL  
6-46

Mrs. Ethel Pearson, principal of the Enslen School, requested Council approval for the closing of Brady Street from Smith to Coldwell, for 3 days beginning May 27 to hold a Folk Dancing Festival. She pointed out that the festival would be held for one day only, Wednesday, May 28, but the additional time would be needed for the placing and removal of the bleacher seats by school personnel.

The City Manager reported that the request had been checked and there would be no special problems involved.

## MOTION

That the request be granted on the basis that the staff work out satisfactory arrangements.

Moved by Arata      Seconded by Merrill      Unanimously carried

REQUEST BY SOROPTIMIST CLUB THAT THE CITY MAKE AVAILABLE A SITE FOR SENIOR  
CITIZENS SERVICE AND RECREATION CENTER 6-80

A request was filed by the Soroptimist and Modesto Woman's Clubs that the Council give favorable consideration and assurance of the site in a city park for the establishment of a Senior Citizens' Service and Recreation Center.

Mrs. Alda M. Coffee, speaking for the Soroptimist Club and Mrs. Ione Hadley, speaking for the Modesto Woman's Club, pointed out that their reason for asking immediate consideration and assurance of a site was to

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take advantage of a generous offer of cement blocks for the building made by Peter Janopaul, owner of the Graystone Tile Company. Mr. Janopaul had made the offer with the stipulation that the site be assured before April 1, 1958, and that the block, be moved from his property within 90 days.

The City Manager pointed out that it would be very difficult to resolve the matter by April 1. He suggested that the staff contact Mr. Janopaul relative to extending the time limit.

Mrs. Coffee stated that the exact location of a site in the parks would not have to be made at this time but if the Council would assure the clubs that a site would be made available, it would meet their requirements.

Plans for the construction and operation of the center by the two clubs were briefly outlined for Council information.

Mrs. Coffee reported that the clubs had been working with Director of Planning Smeath and Director of Parks and Recreation Lowery in the selection of a site which would be centrally located and meet all the necessary requirements but a specific recommendation could not be made at this time since the studies have not been completed. The offer of the cement blocks was given on short notice and the clubs would like to take advantage of the offer.

The City Manager stated that there would be some questions raised regarding the legality of placing a building in certain parks due to the nature of their titles.

#### MOTION

That the Council indicate its interest and approve in principle the plans outlined by the two clubs for the construction and operation by the clubs of a Senior Citizens' Service and Recreation Center on the basis that there would be no commitment by the Council for any site at this time, and that the staff be instructed to contact Mr. Janopaul relative to extending his offer on the cement blocks.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

Mrs. Hamaway and Mrs. Wellman spoke on the need of this facility in the community.

#### RESOLUTION AWARDED BID FOR INSTALLATION OF STREET LIGHTING MATERIALS- MCHENRY VILLAGE SUBDIVISIONS NO. 1 AND NO. 2 8-60

A tabulation of the bids received for the installation of street lighting materials in McHenry Village No. 1 and No. 2 Subdivisions was considered by the Council. The low bid was submitted by the Modesto Industrial Electric Company, Inc. in the sum of \$5,256.10.

#### RESOLUTION NO. 58-92

A RESOLUTION ACCEPTING THE BID OF THE INDUSTRIAL ELECTRIC COMPANY IN THE SUM OF \$5,256.10 FOR THE INSTALLATION OF STREET LIGHTING MATERIALS IN MCHENRY VILLAGE NO. 1 AND 2 SUBDIVISIONS

Introduced by Adams      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

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FINAL ADOPTION OF ORD. NO. 232-C.S. RE: TAXICAB REGULATIONS 8-75

## ORDINANCE NO. 232-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-6.202, 4-6.205, 4-6.211, 4-6.212, 4-6.213, 4-6.214, 4-6.216, 4-6.201, 4-6.402, 4-6.403, 4-6.501, 4-6.502, 4-6.701, 4-6.702, 4-6.703, 4-6.704, 4-6.707, 4-6.708, 4-6.801, 4-6.802, AND ADDING SECTION 4-6.206.1 TO CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICABS",

introduced on 12th day of March, 1958, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Merrill            Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                    Absent: Anderson

INTRODUCTION OF ORDINANCE AMENDING MUNICIPAL CODE RE: METERED WATER SERVICES (SWIMMING POOLS) 8-80

## ORDINANCE NO. 233-C.S. entitled

"AN ORDINANCE AMENDING SECTION 11-1.05 OF CHAPTER I OF TITLE XI OF THE MODESTO MUNICIPAL CODE RELATING TO METERED WATER SERVICES"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata            Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                    Absent: Anderson

FURTHER CONSIDERATION OF THE PROPOSED BUSINESS LICENSE ORDINANCE 8-80

Letters were received from the following relating to the proposed business license ordinance:

- 1- Local processors signed by representatives from California Vegetable Concentrates, Inc.; California Frozen Foods, Inc., Floden-Button Co., Stanislaus Food Products Co., and Tri-Valley Packing Association, requesting that the Council establish a tax rate for their group that would be in keeping with their position in the community and by example of low taxation of food processors make Modesto a more desirable community in which to locate their factories; and asking that the Council set a date for meeting with the group to discuss this proposal.
- 2- Music Teachers' Association of California, Stanislaus County Branch signed by Mrs. Wm. E. Rader, Secretary, requesting permission to discuss proposed license fees for music teachers.

Mr. Harvey Jensen, representing the California Vegetable Concentrates, Inc., urged the Council to give most careful consideration to the license rate established for processors.

Mrs. Rader objected to the proposal to charge private music teachers a license fee when teachers at private schools would be exempt. She re-

commended that the ordinance be modified to provide that a private teacher, teaching in a home or church, shall be considered an educator and not subject to business licensing or taxation.

Councilman Hammond pointed out that the Council's problem was not to show favoritism to one special group and that different interpretations could be placed on "cultural groups". The Council, he stated, strives to serve in equity to all groups. If the cultural groups were exempted in the ordinance, the Council would be left open to other requests for exemption on a similar basis.

Mrs. Rader pointed out that her request for exemption was based on "private teachers who teach in a non-business area---homes or churches for the few teachers of pipe organ". She contended that the directive to the staff to draft a provision to the ordinance that would provide generally for a \$10 annual registration fee for those persons who do not have gross receipts of over \$1200 per year was not satisfactory and the minimum should be increased. She asked that it be raised to \$4,000.

Councilman Hammond considered that the matter should be settled on the basis of principle and not on the contention that the revenue from the music teacher group would be nominal.

#### Report on "Average Number of Employees"

As directed by the Council, the City Manager filed two reports, 1) a schedule based on number of employees for wholesalers, processors, and manufacturers which would provide for the collection of approximately \$12,000 based on the best available information and 2) on trucks with no fixed place of business. He reminded the Council that the changes already indicated the revenue from the business license tax would be reduced from the present ordinance.

The report on "average number of employees" listed two proposals for Council consideration which would raise the approximate revenue of \$12,000 requested by the Council. The City Manager reported that proposal No. 1 was more equitable because the schedule provided narrower brackets. As the number of employees increased the payment per employee would decrease, with a maximum of \$250 for 100 or more employees, with a further provision that those who did not wish to report the number of employees could pay the maximum and not report the number.

Mr. Jensen considered that the establishment of an additional business license fee might keep industrial concerns with large payrolls from operating in the city limits. He urged that the Council "take their time and go slow in establishing a new license fee" because it might mean the loss of one industry which would mean considerable more revenue to the city in payrolls, etc.

P. A. Anderson, representing the Municipal License Tax Association, commented on proposal No. 1 of the report at the request of the Council. He pointed out that the decision on the establishment of a new license fee for the processors, wholesalers and manufacturers would be a Council policy decision but proposal No. 1 would be preferable if it was decided to have a new license tax. This method of taxation with a ceiling of \$250 is better than one based on gross receipts, he considered. He pointed out that he did not represent the processors but those wholesalers which he represented considered that if the Council decided to tax their industries, that proposal No. 1 would be preferable over the first proposal discussed based on gross receipts.

Councilman Hammond reported that processors feel that they should not be included in the same category as wholesalers as they employ more employees. He considered that the protests being voiced by the wholesalers,

manufacturers and processors was not because the amount of the tax would be burdensome but from the standpoint it is adopting a different principle. They consider that future Councils may use it as a stepping stone to provide additional revenue for the city.

Councilman Hammond felt that it was important that these groups participate to a small degree in the business license tax, that they have a responsibility to the community to see that the physical plant of the City is maintained in good order.

Councilman Adams pointed out that while this city might collect its revenue by taxing the business concerns other cities would collect their revenue by ad valorem taxation which would offset each other, as far as operating costs of a plant.

Councilman Hammond pointed out that the average for the cities in the state of California of revenue collected by ad valorem taxes was about 40%, while Modesto only received about 20%. Since Modesto's ad valorem revenue is approximately one-half of the state average, it would be very important to a manufacturer, processor or a wholesaler because their cost of investment of material and equipment to put one employee to work is very high. When these concerns know that their ad valorem tax rate on their inventories and equipment will be about one-half in Modesto as compared to other cities in the state, it will give this city an enviable position in soliciting industries. In order to maintain this position, some revenue will have to be collected through the business license from these concerns.

Report on "Use of Vehicles-No fixed place of business" 11-66

The report included suggested wording for section 6-1.221 of the ordinance pertaining to use of vehicles with no fixed place of business proposed by P. A. Anderson of the Municipal License Tax Association, as requested by the Council.

Comments of Director of Finance Bird on the proposed section submitted by Mr. Anderson and a recommendation for the general language to be used in the section was also included in the report. The proposal was for a semiannual license fee of \$15 for the first truck and \$7.50 for each additional truck.

Mayor Marks pointed out that the wording proposed by the Director of Finance would provide easier administration.

Mr. Anderson was assured that in the drafting of the ordinance his suggestion that those persons delivering dairy products be eliminated from the section relating to "peddlers", would be clarified.

It was generally agreed by the Council that this meeting should be adjourned until 4:00 P.M. Wednesday, March 26; to consider the request filed by the processors.

MOTION

That the general wording for section 6-1.221 Use of Vehicles, No fixed place of business, as outlined in the report of the Director of Finance to the City Manager, dated March 19, be approved and included in the ordinance.

Moved by Robinson Seconded by Arata Unanimously carried

No objections were offered by the Council on the proposal relating to elimination of persons delivering dairy products from the section relating to peddlers.

At the request of Councilman Adams, the City Attorney reviewed the action taken by the Council relating to home occupations that there was a provision approved by the Council that those things conducted as home occupation which meet the requirements of the zoning regulations for which a home occupation permit is issued shall be licensed at \$10 per year.

The other provisions which the Council approved at its last meeting was that any business not licensed on a flat rate business basis which does not gross more than \$1200 annually would pay a \$10 business license also. This does not go to the problem that there may be some businesses in residential areas which are in violation of zoning regulations.

Councilman Robinson suggested that due to the administrative costs in collection of mill license taxes that the \$1200 minimum recently approved by the Council be increased to \$4000, with an annual fee of \$20 instead of \$10.

Councilman Hammond suggested that as a matter of compromise that the minimum of \$1200 be raised to \$2000, recognizing that this would be an encouragement to persons to pick up additional revenue and provide a service which would oftentimes be of more than monetary value.

#### MOTION

That the minimum of \$1200 be increased to \$2000 and that the annual license fee remain at \$10.

Moved by Hammond Seconded by Robinson Unanimously carried

#### PRESENTATION OF THE PROPOSED TRAFFIC ORDINANCE 12-85

The City Manager stated that a report explaining the proposed traffic ordinance would be distributed to the Council members.

#### REPORT ON PETITION FOR STREET IMPROVEMENT, TERESA STREET BETWEEN CARVER AND TEBBUTT 12-90

This matter was held over for discussion later.

#### REPORT ON STREET LIGHTING INSTALLATION IN LUNDQUIST, NORTHGATE NO. 1, ASHFORD NO. 2, COLLEGE DEVILLE, AND GREGORY GARDENS NO. 1 12-95

The City Manager reported that the low bid was \$11,000, the City's estimate was \$8,000, and the work was completed at a cost of \$6,000.

#### CONSIDERATION OF REGULATIONS FOR 13th AND 14th STREET PARKING LOTS 12-105

The Director of Parking and Traffic reported on the present regulations of the 13th Street parking lot and recommended that to insure the City does not lose this lot, the rates be reduced and the time limits be increased. He recommended that the rates be dropped to 5¢ an hour with no maximum time limit and the meters be converted to a 10 hour limit. He stated that the City Council's parking committee agreed with these recommendations. The cost for converting the meters would be approximately \$250.

#### MOTION

That the Council approve the recommendations of the Director of Parking and Traffic and instruct the staff to proceed on that basis.

Moved by Hammond Seconded by Merrill Unanimously carried

The Director of Parking and Traffic reported on the fact that there is inadequate lighting on the 14th Street parking lot and considered that the city was running the risk of suits. He suggested closing this lot at night and directing the people to the 13th Street lot. He stated that it would cost about \$600 to install the lights.

The City Manager suggested that the City proceed on the basis that there be no charge after 6:00 P.M.

**MOTION**

That the City Attorney be directed to prepare a resolution to change the hours of operation to close the 14th Street parking lot at 6:00 P.M. but the lot to remain open.

Moved by Mayor Marks      Seconded by Hammond      Unanimously carried

REFER APPLICATION FOR ANNEXATION OF HILLVIEW ACRES ADDITION TO PLANNING COMMISSION 13-55

**RESOLUTION NO. 58-93**

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS HILLVIEW ACRES ADDITION.

Introduced by Merrill      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

REPORT FROM LEAGUE OF CALIFORNIA CITIES RE: DISASTER AND CIVIL DEFENSE 13-60

Copies of the memorandum from the League of California Cities relating to civil defense and disaster by Richard Carpenter were distributed to the Council members.

REPORT ON CITY HALL FINANCING BOND SALE 13-65

The City Manager stated that the time had arrived to make arrangements for the sale of city hall bonds.

**MOTION**

That the staff be authorized to proceed with the arrangements for the bond sale for the new city hall.

Moved by Arata      Seconded by Merrill      Unanimously carried

ADJOURNMENT

**MOTION**

That this Council meeting be adjourned until 4:00 P.M. Wednesday March 26, to meet in adjourned session for further consideration of the proposed business license ordinance.

Moved by Hammond      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 7:20 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

March 26, 1958

The Council of the City of Modesto met in adjourned session this date at 4:00 P.M., having adjourned from the Council meeting of March 19, as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Merrill, Mayor Marks

Absent: Councilmen: Adams, Anderson, and Robinson

Councilman Robinson arrived at 4:06 P.M.

Councilman Adams arrived at 4:20 P.M.

FURTHER DISCUSSION ON PROPOSED BUSINESS LICENSE ORDINANCE 1-02

Processors, Manufacturers, Wholesalers: Mayor Marks offered a suggestion, for Council consideration, to resolve the problems on the license fees;

That since this city has traditionally recognized the need for more industries and has contributed over \$10,000 annually to the Chamber of Commerce to entice new industries (manufacturers and processors) to the city and for the betterment and enlargement of existing industries, that 1) the wholesale classification be separated from the manufacturer and processor classification and 2) that a flat fixed annual fee be established (\$25 or \$50) instead of basing the license fee on gross receipts or average number of employees.

He considered that the estimated revenue of \$3,000 to be derived from these two classifications was not too important a matter when it was compared to the advantages of being able to "sell Modesto" to the industries as a suitable site for establishing their plants.

Harvey Jensen expressed approval of Mayor Marks' suggestion and reported that the processors had planned to propose a flat, annual \$50 fee basis of taxation.

Councilman Hammond pointed out that every \$5,000 dropped from the business license tax would mean 1¢ on the ad valorem tax rate. The decision is to be made largely on the basis of where people in the community want to pay their taxes, in their license fees or on their personal and real property. The proposal on the revision of the business license tax was not to raise additional revenue, he pointed out, but instead the revenue was to remain status quo. If the revenue is to be dropped another avenue to secure revenue must be explored, he contended.

Mayor Marks considered that the employees hired by new concerns would generate more purchasing power which would be reflected in the sales tax revenue, and would be more of a potential source of income to the community.

Councilman Merrill considered that the suggestion of Mayor Marks' might enable the city to decrease the annual contribution to the Chamber of Commerce which is used for advertising to obtain industries for the city.

J. L. Wallace, manufacturer of distilled water, whose plant is located at 709 McHenry Avenue, stated that he employed 4 persons, his gross business was approximately \$13,000, and most of the business was conducted outside the city limits. He asked that he be placed in a class where the fee would be \$25 instead of \$50.

City Attorney Grimes suggested that processors, wholesalers, and manufacturers pay under: 1) the proposed average number of employees schedule, or 2) the general retail schedule.

Councilman Hammond pointed out that it would be difficult for certain concerns, such as the Milk Producers, to differentiate between the wholesale and processing business if these categories were separated.

The Council discussed the definitions of "wholesaler" and "processor" as proposed in the draft of the ordinance and the problems which would be involved for these concerns operating both types of business.

Don Hardie, Manager of Milk Producers, considered that the Council was "clouding the issue to satisfy one little segment of industry". Instead of being taxed one time, he stated, the MPA and the entire milk industry will be taxed 4 times. The average number of employee basis would be a more equitable basis for taxation, he stated.

The Council discussed the possibility of including the manufacturer, wholesaler, processor, and broker in one category in the ordinance, and the effect this would have on the projected revenue.

Councilman Hammond suggested that a flat annual registration fee of \$100 be established, but that a concern be permitted to elect whether it would pay under the retail classification. He later amended his suggestion, after Council discussion, that the proposed registration fee of \$25 remain unchanged, that the manufacturer, wholesaler, processor and broker be combined in one classification with an annual fee of \$50, plus the registration fee, and the operator be permitted to elect whether he would pay under this classification or a retail classification.

It was brought out in the discussion that retail and wholesale operations could not be combined and that a concern doing both retail and wholesale would be required to secure both a wholesale and retail license.

#### MOTION

That manufacturers, wholesalers, processors and brokers, other than commissioned brokers, be charged a flat annual fee of \$75 and be given the opportunity to pay under the retail schedule if they so desire.

Moved by Hammond      Seconded by Arata      Unanimously carried

To a question raised by Mr. Hardie of the MPA, the City Attorney pointed out that the mill license would be due on all retail operations, except that a business license tax paid to another city using the gross receipts base would be deductible from gross receipts used to determine the license tax due to the City of Modesto.

Richard Lyng raised a question about registration fees to be charged public utility operators, where only a minor part of the total business falls under this category.

## MOTION

That the fee to be paid by public utilities be the same schedule of charges as wholesalers, brokers, processors, and manufacturers.

Moved by Robinson    Seconded by Adams    Unanimously carried

LETTER FROM VALLEY TRACTOR COMPANY RE: LICENSE FEES 5-77

The letter was read by Mayor Marks, and the attached report relating to "city tax cost comparisons" noted by the Council.

Emmett Grandall, President of the Valley Tractor Company recommended that the Council include a new category, "distributors" along with wholesalers, which would be defined as "business firms who warehouse stocks within the city but sell and distribute at least (x%) of their products outside the city and that these firms be subject to the average number of employees schedule for license fees".

Since the "average number of employees" basis of taxation has now been discarded by the Council, Mr. Grandall stated, he would like to have the opportunity of reporting as a wholesaler, instead of under the retail schedule. He contended that the elimination of the personal property tax credit on retail sales would work an inequitable hardship on his company, as 100% of the sales were outside the city limits.

Councilman Robinson suggested that a category be included in the ordinance which would take into consideration the fact that a large percentage of business was done outside the city.

Councilman Hammond opposed this suggestion and considered that there were many other concerns in the same situation and there were many advantages to do business within the city even though the largest percentage of business was done outside the city.

Mr. Grandall pointed out the similarity between the operations of a distributor of production machinery and a wholesaler. He stated that his company was using its store more as a warehouse than a selling location, as most of the sales were made outside the store; that his company was selling equipment to persons who were producing merchandise to be processed by other plants. He asked that the Council consider creating a classification in the ordinance for those concerns which do not do any of their business in the city limits.

This suggestion was discussed by the Council and it was agreed that the problems which would be involved, if this was applied to other types of retail businesses, would be numerous.

Director of Finance Bird pointed out that Mr. Grandall's problem was as much a personal property tax problem as it was a business license problem and questioned if it could be solved by the business license ordinance.

The suggestion of Mr. Grandall---when 100% of the sales are conducted outside the city, a special category be created---was discussed and it was agreed that the legality of the suggestion would be given due consideration in the drafting of the ordinance.

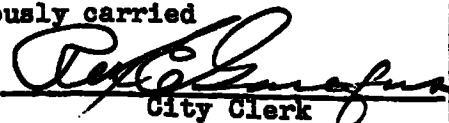
## MOTION

That the meeting now in session be adjourned.

Moved by Hammond    Seconded by Arata    Unanimously carried

The meeting was adjourned at 5:45 P.M.

ATTEST:

  
City Clerk

March 26, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Merrill, Hammond, Robinson, Mayor Marks

Absent: Councilmen: Arata, Anderson

City Manager Ross Miller being absent, Assistant City Manager Bill Masonheimer acted in his place.

The pledge of allegiance to the flag was given by all those present.

Rev. Reuben A. Olson gave the invocation.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of March 12, 1958, and the same being available for public inspection and there being no objections, the minutes were approved.

Councilman Arata arrived at 7:37 P.M.

LETTER FROM DIVISION OF HIGHWAYS REGARDING CHRISTMAS DECORATIONS 1-16

A letter from the Division of Highways, District X outlining procedure for decorating state highways for the Christmas season, was read and referred to the Department of Public Works.

ORDER MATTER OF RESOLUTION RELATING TO ELIMINATION OF FEDERAL EXCISE TAXES ON TELEPHONE CALLS PLACED ON AGENDA FOR COUNCIL MEETING OF APRIL 2 1-33

With the unanimous consent of the Council, Mayor Marks was granted permission to bring up a matter not on the agenda---copy of resolution adopted by the City of Los Angeles requesting Congress to repeal the federal telephone excise tax.

Mayor Marks reported that Lee Davies, local manager of the Pacific Telephone & Telegraph Company has requested that the City Council adopt a similar resolution. Mr. Davies had pointed out that \$450,000 of the money paid annually as excise taxes by the consumers in the Modesto area to the Telephone Company is sent back to Washington, as well as \$50,000 collected from the balance of Stanislaus County. This money, Mayor Marks stated, could funnel its way into the stream of local trade if this excise tax, which was originally adopted as a war measure, was eliminated.

MOTION

That this matter be placed on the agenda for Council consideration at the next Council meeting.

Moved by Merrill      Seconded by Robinson      Unanimously carried

APPROVE SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR TRAFFIC SIGNALS 1-66

RESOLUTION NO. 58-94.

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS

FOR FURNISHING ALL MATERIAL, MACHINERY TOOLS, LABOR, AND SERVICES  
NECESSARY FOR THE CONSTRUCTION OF TRAFFIC SIGNALS

Introduced by Arata                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson

Director of Parking and Traffic Douglas Carmody reported that traffic signals would be installed at 10th and G Streets; traffic signals and street lighting at 11th and G; 12th and I, and 7th and G Streets. The time set for the opening of the bids was 2:00 P.M., April 15, 1958.

FINAL ADOPTION OF ORDINANCE NO. 233-C.S. AMEND CODE RELATING TO WATER RATES  
FOR SWIMMING POOLS 1-95

ORDINANCE NO. 233-C.S. entitled

"AN ORDINANCE AMENDING SECTION 11-1.05 OF CHAPTER I OF TITLE XI OF THE  
MODESTO MUNICIPAL CODE RELATING TO METERED WATER SERVICES"

introduced on March 19, and having been printed and published as required by  
the Charter and coming on for final consideration was moved and adopted.

Moved by Adams                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                  Absent: Anderson

REPORT ON PETITION FOR IMPROVEMENT OF TERESA STREET 1-97

As directed by the Council, Director of Public Works Ray reported on  
the investigation of the petition filed by property owners requesting im-  
provement of Teresa Street between Carver Road and Tebbutt Avenue. He  
stated that a rough estimate of the cost for installation of curbs and  
gutters, grading and installation of plant mix surfacing and rock base,  
under improvement district proceedings, would be \$33,200, which would include  
\$5,200 for engineering expenses, bond counsel, etc.

The requirements of the city's policy for 20% participation in the cost  
of paving, could not be met on this street since storm drainage is not  
available. If the Council wishes to revise its policy, it will be necessary  
for the staff to proceed with plans and specifications in order that a  
more detailed estimate of assessments could be provided to the property  
owners in the event they wish to proceed with the hearing for a district.

The Council discussed the feasibility of improving this street before  
storm drainage was available since the present plans for drainage in this  
area did not call for the installation of a trunk sewer on this particular  
street and there would be nominal costs for tearing up the pavement to  
connect to a storm sewer.

The points brought out in the discussion were:

1. The present poor condition of the street made traffic movement very  
difficult;
2. The city's program for providing storm drainage in this area has not  
been determined at this time;
3. What should be the Council's position when citizens expressed a desire  
for and willingness to improve their streets when storm drainage facilities  
are unavailable and would be unavailable for such a long period of time?

4. There would be increased maintenance costs to the city if a program was approved for the paving of streets before storm drainage was provided;
5. The improvement of streets prior to storm drainage facilities would create additional problems since the water might be drained to another low area which was not improved?
6. Property owners should be permitted to improve their streets without city participation if they desired, even if the city has to pay costs for preparing plans and specifications to determine the costs prior to the public hearing;
7. It is a fundamental policy decision for the Council to decide as to the size of an area which would justify the costs for improvement districts;
8. The completion of the McHenry Avenue widening program, including the storm drainage district west to Virginia Avenue would be an example to demonstrate to the balance of the areas in the city needing storm drains.

Mr. Ray reported that the street was in such a poor condition that it would have to be reworked and oiled this summer if the paving is not done. However, due to lack of curbs and gutters there is no drainage and this surfacing will not last very long. He recommended that some Council action be taken on this request so that the people have an opportunity to proceed with the project if they so desire even though it is not quite an economical unit, which the owners already understand. The question at this time is whether the city will participate.

#### MOTION

That the staff be instructed to proceed with the preparation of plans and specifications, but on the basis that the city will not participate in the costs of the project due to the lack of storm drainage facilities.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

Mr. Ray pointed out that in the event there is no district the city will have advanced some engineering services for which it would not be compensated.

Mr. Masonheimer pointed out that the Council had the authority to determine the boundaries of an improvement district and if the inclusion of other streets in this area would make it a more economical unit for a district, property owners could be contacted by a postcard poll to determine their interest.

It was agreed by the Council that the staff should check out the engineering feasibility of including other streets in the area in an improvement district and determine the property owners interest.

#### Progress report on study on storm drainage for area west of Virginia Avenue

Mr. Ray reported on the progress being made in the study ordered by the Council, relating to storm drainage for the north area west of Virginia Avenue.

The feasibility of having a joint state-city project, with a line down the center of the freeway, was explored but dropped when it was determined that the line would be 30 feet underground for a distance of 1400 feet north

of the river bank. That idea, as a gravity line, was dropped and the staff is exploring others. As soon as sufficient information is collected, a report will be made, Mr. Ray stated, but it is very apparent that it would not be feasible to use the freeway for a storm drain line.

Mr. Ray indicated one possibility being considered is the construction of a holding reservoir for storm water which could then be fed out with a smaller line to the river or to some other disposal course. This would provide substantial savings over taking all water to the river at the time it falls.

He stated that the state objected to using the freeway right of way for any utilities. The cooperative field is still being explored by the staff and it is possible that a plan might be worked out where a feeder line from a holding reservoir would be constructed along the top edge of the freeway which could be used by the state to pump storm water into from selected points along the freeway.

Mr. Ray reported that conferences had also been held with the M.I.D. in regard to using its canals, but no firm proposal is ready at this time. He advised the Council that as soon as the staff had something concrete to suggest a report would be submitted and that it would continue to work on the project in a diligent manner.

REPORT ON REQUEST OF JAMES & MYRA HARP FOR REDUCTION IN RENT OF RIGGS BUILDING 4-27

Director of Finance Bird reported on the staff's investigation on the request of James & Myra Harp for a reduction in the \$130 rent paid the city for the store space in the Riggs Building, located at 907 I Street, a copy of the report is on file with the records of this meeting.

Mrs. Harp contended that the economic conditions of the city made it impossible to pay the present rent and asked that it be lowered.

Mr. Carmody suggested that since this property was purchased for parking purposes, and as the Harp lease would run to 1961, an effort be made to cancel all the leases, demolish the building and include the area in the Ninth Street parking lot.

MOTION

That the matter be referred to the City Manager to contact all the lessees to determine if all would agree to cancel their leases as soon as possible and report to the Council.

Moved by Arata      Seconded by Robinson      Unanimously carried

Mayor Marks pointed out that the "hold-outs" would not be the city's problem but the remainder of the lessees.

DATE FOR CONSIDERATION OF TRAFFIC ORDINANCE ESTABLISHED FOR NEXT COUNCIL MEETING 5-22

Acting City Manager Masonheimer noted that copies of the proposed traffic ordinance and Traffic Engineer's Report had been distributed to the Council members for study. The Council agreed that it should be placed on the agenda for the next meeting.

ACCEPT RIGHTS OF WAY AGREEMENTS FOR WIDENING OF McHENRY AVENUE 5-35

The names of the new property owners who had executed right of way

agreements for the widening of McHenry Avenue were listed by the Acting City Manager.

**RESOLUTION NO. 58-95**

**A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY**

Introduced by Arata      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

Mayor Marks noted that approximately 65% of the owners had already executed contracts without reimbursement, for the widening of the street. He considered that if one person refused to give his right of way without reimbursement, all of the owners should be paid through an improvement district proceedings.

Councilman Arata and Merrill differed from this idea since they considered that the owners were being paid by the improvement of their property which will increase the value of the properties.

Mayor Marks reported that some of the owners were holding up their dedication because they felt that some of the "hold-out" owners would be paid in order to clear the project. He stated that he had assured these persons that if the project developed in this manner the whole project would be considered by the Council in public open forum so that everyone would have an opportunity to express their ideas.

**REQUEST COUNTY BOARD OF SUPERVISORS TO CANCEL CITY AND COUNTY TAXES ON PROPERTY PURCHASED FROM TED SEYBOLD AND IRVIN SWEDIGAR 5-67**

**RESOLUTION NO. 58-96**

**A RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF STANISLAUS COUNTY TO CANCEL CITY AND COUNTY TAXES ON PROPERTY OWNED BY THE CITY OF MODESTO (SEYBOLD)**

Introduced by Hammond      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

**RESOLUTION NO. 58-97**

**A RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF STANISLAUS COUNTY TO CANCEL CITY AND COUNTY TAXES ON PROPERTY OWNED BY THE CITY OF MODESTO (SWEDIGAR)**

Introduced by Robinson      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

**REPORT ON ALTERNATE PROPOSAL FOR TRAFFIC DIRECTIONAL SIGNALS AT DOWNEY AND I STREETS 5-80**

An alternate proposal for traffic directional signals at Downey Ave. and I Street was outlined by Mr. Carnody. He suggested that instead of

spending \$1500 for the overhead sign, already approved by the Council, to regulate turning movements from Downey onto I Street, that traffic islands and street lights be installed. He estimated the cost of the lights to be \$600 and \$240 for channel islands and signs. He pointed out that the street lights would be needed anyway for pedestrian travel to the churches and school, and should not be considered a part of the Traffic Department costs. \$100 of the cost for channel islands and signs would be recoverable if this method of traffic control did not work out at this intersection.

**MOTION**

That the alternate plan outlined by Mr. Garmody be approved and the staff be authorized to proceed on this basis.

Moved by Robinson      Seconded by Merrill      Unanimously carried

**AUTHORIZE STAFF TO PROCEED ON PREPARING BUSINESS LICENSE ORDINANCE 6-03**

**MOTION**

That the staff be instructed to draft a proposed ordinance revising the business license tax regulation in accordance with the actions taken by the Council.

Moved by Arata      Seconded by Merrill      Unanimously carried

**DENY REQUEST OF NORMAN PETERS FOR VARIANCE TO CURB CUT REGULATIONS 6-12**

Director of Public Works Ray reported on the request filed by Norman Peters, 144 Sunset Boulevard, for a variance from the curb cut regulations to permit a redwood curbing installed without permit, remain on both Sunset Avenue and Center Street. He stated that a potential hazard can develop as a result of this construction. He recommended that in view of the provision of the Code and City Council policy that the request be denied.

**RESOLUTION NO. 58-98**

**A RESOLUTION DENYING PETITION OF NORMAN PETERS FOR A VARIANCE FROM THE CURB CUT REGULATIONS OF THE MODESTO MUNICIPAL CODE**

Introduced by Robinson      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

**SET DATE FOR PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE ZONING ORDINANCE 6-55**

Resolution No. 436 adopted on March 18 by the Planning Commission recommending that the Council amend the Municipal Code relating to the zoning regulations was noted by the Council.

The City Clerk suggested that the date of April 16 at 4:30 P.M. in the Council Chamber be set as the time and place for this public hearing on the proposed amendments.

## RESOLUTION NO. 58-99

A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE ZONING REGULATIONS OF THE CITY OF MODESTO

Introduced by Robinson      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

HOLD OVER CONSIDERATION ON THE PROPOSED CLOSING OF PORTION OF GROVE AVENUE 6-60

This matter was held over and ordered placed on the agenda for the next Council meeting. The letter from J. A. Saletta relating to this matter was also held over to be considered at the same time.

LETTER FROM PLANNING COMMISSION RELATING TO RESOLUTION OF PROCEDURE FOR ADOPTING FREEWAY LOCATION RECEIVED FROM THE STATE HIGHWAY COMMISSION 6-72

The letter was read advising that the resolution adopted by the California Highway Commission restating procedure relative to adopting freeway locations provided adequate procedure for local and State cooperation. The letter was ordered filed.

RECOMMENDATION THAT MODESTO CITY CONTRACT FOR BLOCK STATISTICS SERVICE 6-78

A letter was read from the Modesto City Planning Commission recommending that the city avail itself of the block statistics service for the city of Modesto which would be compiled with the federal census in 1960 and make arrangements to contract with the federal government prior to the taking of the census. The estimated cost would be approximately \$3000 to \$4000, but if upon completion of the census, Modesto was found to have a population of 50,000 or more, the information would be furnished without charge.

The various uses which could be made of this information was explained by Director of Planning Smeath.

The Council asked that they be furnished with a report on the type of information and the uses to be made of the information by the City. It was also agreed that this matter be considered at the budget hearings on the Planning Department. Mr. Smeath stated that the deadline for the city's decision would be in June so that the federal government could prepare its plans on the number of cities in California which would avail themselves of the block statistic service.

RECOMMENDATION REGARDING CARPENTER ROAD PROJECT 7-38

Mr. Smeath reported that the city staff had reviewed a feasibility report furnished by the County on the Carpenter Road project. The Council ordered that the matter be held over until the next meeting to give the members an opportunity to study the report.

REPORT BY DIRECTOR OF PLANNING ON WORK BEING CONDUCTED BY THE PLANNING STAFF ON MULTIPLE FAMILY AREA (R-3)

Mr. Smeath reported that the planning staff had been working on the problem of multiple-family residential zones. The staff considers that at this point the zoning does not provide a proper area for R-3 development

unless there is a renewal or redevelopment program of some kind where older houses exist. There is more and more a dividing tendency in cities; 1) that more people want to live in single family homes protected from all disharmonious uses of any kind, including R-3 units and 2) there are more and more people who do not want to buy houses and want to have a reasonable kind of apartment, temporarily or permanently. The problem is the constant and continual growth of the city as single family residential development with almost no provision for R-2 and R-3 units in reasonable areas. The staff plans to present for consideration some proposals for additional areas which would be logical for use.

Mayor Marks reported that he had notified John Quaresma, who had been denied permission by the Planning Commission to build R-3 unit on Tully on the Causey property, he would have the right to appeal to the Council for permission to develop the property as a multiple-family use when he could present a firm plan for its development.

Councilman Hammond considered that it would be necessary for the Council to create some standards for the R-3 and R-2 zoning before it would meet with general public approval.

APPROVE APPROPRIATION TRANSFER FOR LEGAL ADVERTISING AND PROFESSIONAL SERVICES 8-01

RESOLUTION NO. 58-100

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$2,075 FROM GENERAL RESERVE TO CITY CLERK AND AUDITOR, ADVERTISING, LEGAL AND OTHER, SERVICES PROFESSIONAL AND OTHER

Introduced by Hammond      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

REPORT ON DISCUSSION WITH PETER JANOPAUL RE: ADDITIONAL TIME LIMIT ON HIS OFFER TO FURNISH CEMENT BLOCKS FOR CONSTRUCTION OF THE SENIOR SERVICE CENTER 8-35

Mayor Marks reported to the representatives from Modesto Womens' Club and Soroptimist Club who were present, that Mr. Janopaul had been contacted with regard to extension of the time limit of April 1 for acceptance of his offer of cement block to build a senior service center and had agreed that he would be happy to provide extra time.

PROGRESS REPORT ON CITY HALL PLANNING 8-60

Copies of a report from Mr. Masonheimer to the City Manager on the conference held with the architect for the new city hall were distributed to the Council members.

REPORT ON LEGISLATIVE MATTER 8-77

The Acting City Manager reported that no discussion would be necessary on this agenda item.

ADJOURNMENT

MOTION

That this meeting now in session be adjourned.

Moved by Mayor Marks      Seconded by Hammond      Unanimously carried

The meeting was adjourned at 9:20 P.M.

ATTEST:

  
City Clerk

3-26-58 Page 8

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Arata, Hammond, Merrill, Mayor Marks

Absent: Adams, Anderson, Robinson

Councilman Robinson arrived at 4:08 P.M.

Councilman Adams arrived at 4:11 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Cecil Morrysten, pastor of the Free Methodist Church, gave the invocation.

LETTER FROM INDEPENDENT ORDER OF FORESTERS 1-01

A letter was read from the Independent Order of Foresters requesting permission to hold a street dance on 15th Street, between Burney and E Streets, April 12, to celebrate the establishment of its district dues collection office in Modesto. City Manager Ross Miller recommended that the request be granted.

MOTION

That the staff be authorized to work with the Foresters to temporarily close the street for the celebration on April 12.

Moved by Merrill Seconded by Arata Unanimously carried

LETTER FROM SIERRA GOLD CANDY 1-10

A letter was read from Florabel M. Brennan, Historian of Sierra Gold Candy. The City Clerk was directed to acknowledge receipt of the letter and box of candy and, in line with the city's policy, send the box of candy to a charitable organization (Modesto State Hospital).

LETTER FROM GEORGE BUMGARDNER WATER COMPANY AND COPY OF AMENDED APPLICATION FOR INCREASE IN WATER RATES 1-25

A letter, from George Bumgardner Water Company, enclosing copy of an application to the Public Utilities Commission for increase in water rates, was noted and ordered filed.

AWARD BID FOR DEMOLITION OF OLD HOTEL MODESTO BUILDING TO CALIFORNIA BUILDING AND WRECKING COMPANY 1-40

A tabulation of the 12 bids received for the demolition of the Hotel Modesto building and opened on March 21, which ranged from \$11,100 to \$41,330, were distributed for Council information. Director of Public Works Ray recommended that the low bid submitted by the California Building and Wrecking Company be accepted.

## RESOLUTION NO. 58-101

A RESOLUTION ACCEPTING THE BID OF CALIFORNIA BUILDING AND WRECKING COMPANY IN THE AMOUNT OF \$11,100 FOR THE DEMOLITION OF OLD HOTEL MODESTO

Introduced by Merrill                      Seconded by Arata

Ayes: Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None                                      Absent: Adams, Anderson

Before the roll was called on the Resolution, a letter received from Frank Andrews protesting the demolition of the building, was read and ordered filed.

Report on foundations of new city hall 1-62

The City Manager reported receipt of the report from Consulting Engineer Charles H. Lee on the foundations of the new city hall, which would be available for inspection at the Manager's office.

INTRODUCTION OF TRAFFIC AND PARKING REGULATIONS ORDINANCE 1-67

Copies of the proposed ordinance regulating traffic and parking, having been previously distributed to the Council members for study, the matter was brought up for discussion.

The report of Director of Parking and Traffic Douglas Carmody to the City Manager, dated March 21, listing 1) items to be handled by the City Council in the proposed ordinance, 2) items to be handled by the Director of Parking and Traffic, and 3) important changes in regulations, a copy of which is on file with the records of this meeting, was discussed.

Points brought out in the discussion were:

- 1- The citizen's right of appeal to the Council without a public hearing on items to be handled administratively is provided, as the ordinance would become a part of the Municipal Code;
- 2- That too much zeal should not be attached to the interpretation of the regulations, to a point where it might be contrary to the "nature of the community" and create problems where none now exist;
- 3- The items to be handled by the Director of Parking and Traffic, not now handled by him, were again discussed and cleared by the Council;
- 4- Two real values obtained from the administration of certain items by the staff are, 1) the action can be taken promptly which will benefit the general public, and 2) time and work for both the staff and Council will be saved.

The City Manager and City Attorney pointed out particularly some of the important changes in the regulations which were included in the ordinance;

- 1- Trains may not block a crossing for more than 10 minutes;
- 2- Riding bicycles on sidewalks, except in the business district, will be permitted;
- 3- Locking of ignition on parked vehicles will be required;
- 4- The provision permitting trucks to park free in metered zones to load and unload for a period of 15 minutes is to be continued;

5- The practice of parking on the wrong side of a two way street will be illegal.

The City Manager stated that even though the staff would have the authority to administer certain traffic regulations, all matters upon which the Council had not established a policy, or where the staff wished the Council to be aware of proposed action, would be cleared with the Council.

**ORDINANCE NO. 234-C.S. entitled**

**"AN ORDINANCE AMENDING CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE BY ADDING ARTICLES I THROUGH 16, BOTH INCLUSIVE, THERETO, RELATING TO TRAFFIC AND PARKING REGULATIONS, AND REPEALING CERTAIN ORDINANCES IN CONFLICT THEREWITH AND REPEALING CHAPTER 6 OF TITLE III AND SECTION 3-2.01 OF SAID CODE"**

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None              Absent: Anderson

**REQUEST CONGRESS TO REPEAL THE TELEPHONE EXCISE TAX 3-15**

As directed by the Council, the City Attorney presented for consideration a resolution requesting the Congress to repeal the telephone excise tax.

**RESOLUTION NO. 58-102**

**A RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO REPEAL THE TELEPHONE EXCISE TAX**

Introduced by Merrill      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None              Absent: Anderson

**APPROVE RECOMMENDATION OF PLANNING COMMISSION RELATING TO CARPENTER ROAD PROJECT 1-20**

The City Manager noted that copies of the summary on the engineering feasibility report on the construction of Carpenter Road as a Stanislaus County Primary Road and copies of the recommendations of the Modesto City Planning Commission had been distributed to the Council members for study.

Director of Planning Smeath displayed a map of the proposed alignment of the road and answered questions raised by the Council:

- 1- That the engineers had proposed two alternatives for the location of the road, 1) on the section line and 2) slightly off the section line on the basis of costs since some houses were involved on the section line;
- 2- That the city's recommendation on the project at this time would not relate to either alternative but only approve the proposal of the development of the road and the determination as to the exact alignment would be made at a later time;
- 3- This road would become a county primary "farm to market" and service road from the south end of the county;

- 4- This road would become part of a circumferential route to tie in with a series of major streets around the city so that people would not have to travel through the middle of the city when they wanted to go someplace else and for a connection for those people who wished to cross the river to come into the west side of Modesto and proceed in a northerly direction;
- 5- This road could go in as a state aid program if done in the county program but if it was annexed to the city it would become a part of the city program.

The Commission's letter to the Council recommending the approval of the project with the following exceptions was read:

- 1- That the connection of the road to the 99 freeway, rather than stopping at Blue Gum Avenue, be a part of the project;
- 2- The question of the right of way---the report recommends 80 feet and the Commission recommends that it be studied by the city, county and state to determine if this would be a sufficient width;
- 3- The acquisition of the control of access be resolved at the time the project goes in rather than waiting until a later date.

**MOTION**

That the City Clerk be directed to write a letter to the County advising that the Council had approved the recommendations of the Modesto City Planning Commission, as set forth in its letter of March 21, 1958, to the Council.

Moved by Robinson · Seconded by Arata Unanimously carried

**APPROVE APPROPRIATION TRANSFER FROM GENERAL RESERVE TO AIRPORT FOR PAYMENT OF TAXES 4-40**

**RESOLUTION NO. 58-103**

**A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$618 FROM GENERAL RESERVE TO AIRPORT FOR PAYMENT OF CITY-COUNTY AIRPORT COUNTY AND MID TAXES**

Introduced by Robinson Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None Absent: Anderson

**REPORT ON LETTER OF PROPERTY OWNERS ON SYCAMORE AVENUE REGARDING SIDEWALKS, CURBS AND GUTTERS 4-50**

The City Manager reviewed the action taken by the Council on a complaint, which had been filed by a property owner on Sycamore Avenue, between Roseburg and Orangeburg, that the failure of a few property owners to install sidewalks, curbs and gutters in this area, had created serious drainage problems. The Council had directed the staff to write a letter to the remaining property owners asking them to voluntarily make these improvements and advise them when more than half of the properties abutting upon a street installed the improvements, the improvement of the remaining sections can be required through procedures and provisions set forth in the State Streets and Highways Code.

Copies of the letter to be sent to these owners were presented to and checked with the Council.

POLICY ESTABLISHED ON SENDING LETTER TO PROPERTY OWNERS RE: IMPROVEMENTS OF SIDEWALKS, CURBS AND GUTTERS, ETC. 4-65 (John Muir Park)

Director of Public Works Ray asked for Council guidance on sending this type of letter to property owners in other areas where similar conditions exist. He reported that a similar request had been filed by property owners in the John Muir Park area where curbs and gutters have already been installed by all but a few property owners.

The Council unanimously agreed and the Council so ordered that it would consider each area separately, after appropriate interest was expressed, before letters were sent or action taken.

The staff was requested to submit a report to the Council giving information on the conditions, listing alternatives and recommendations in each future case.

The City Manager reported on the isolated instances where curbs and gutters had not been installed in the John Muir Park area and asked for Council direction. He pointed out that final legal action could not be taken without Council approval but the letter could be sent out advising the owners of the fact and requesting voluntary compliance.

**MOTION**

That the staff be authorized to proceed on the same basis in the John Muir Park Area as in the Sycamore Avenue Area and the sending of the same type of letter to the property owners be approved.

Moved by Arata      Seconded by Hammond      Unanimously carried

REMOVE STOP SIGNS OFF OF G STREET AFTER STOP SIGNS WERE ESTABLISHED ON 15th STREET 4-85

**RESOLUTION NO. 58-104**

**A RESOLUTION RESCINDING RESOLUTION NO. 55-451 ENTITLED "A RESOLUTION ESTABLISHING STOP SIGNS AT G STREET AT ITS INTERSECTION WITH FIFTEENTH STREET IN THE CITY OF MODESTO"**

Introduced by Mayor Marks      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

REPORT ON RIGGS BUILDING LEASES 4-90

The City Manager reported that, as directed by the Council, the staff had checked with all of the lessees in the Riggs Building, to determine if they would agree to cancel their leases so that the city could proceed with the development of the parking lot. Pancake Alley, Ship Cafe, Central Hotel and Riggs and Nissons Jewelers do not wish to cancel their leases but the Clothing Center does wish to cancel and the Barber has already moved out. He recommended that in view of the general situation that no changes in rental be made.

A letter was read from Paul Cross, operating the Pancake Alley restaurant, requesting permission to remain at this location after his lease expired in August 1958, since his quarters are apart from the rest of the building and located in a position which would not hinder the development and operation of the parking lot. The City Manager recommended that no action be taken on this request at this time.

## MOTION

That the requests of Myra Harp and Paul Cross for a reduction in rent for the building space leased from the City in the Riggs Building be denied and that they be so advised.

Moved by Robinson    Seconded by Hammond    Unanimously carried

CONSIDER ESTABLISHMENT OF NO PARKING ZONES ON JONES AND GRANT STREETS IN VICINITY OF McHENRY AVENUE

Mr. Carmody reported that due to the narrow width between curbs on Jones and Grant Streets, it was difficult for cars to travel through the streets when cars were parking on both sides.

He reported receipt of a request from Ralph Campbell, 306 Jones Street, for the establishment of a no parking zone on one side of the street.

Mr. Carmody recommended that a no parking zone be established on the north side of each street to permit cars proceeding toward McHenry Avenue to be along the curb and that a short 50 ft. no parking zone also be established on the south side. He pointed out that this procedure might be unpopular with some of the property owners, so it was being presented for Council consideration before the staff contacted the owners.

He also suggested that due to the narrow width of Morris Avenue, west of McHenry Avenue, the same procedure be followed for one block. He stated that this matter was brought up as a test case prior to the adoption of the new traffic ordinance for Council guidance as this was one type of traffic regulations which had never been presented for Council policy determination.

The City Manager stated that since this was a new type of traffic regulations it would have been presented for Council guidance, even though it could be handled administratively under the new traffic ordinance.

The points brought out in the Council discussion were:

- 1- That this would be ill-timed due to the McHenry Avenue widening project;
- 2- That it should be thoroughly explored to determine the desire of the property owners along Grant Street, Jones, Street, and Morris Avenue (one block west of McHenry Ave.) and to determine if it would be in the public interest and welfare.

Mr. Carmody pointed out that in many cases the motoring public was requesting regulations which might prove to be unpopular to property owners in the affected area.

Mayor Marks asked that when this situation arose the staff submit a report to the Council giving the facts, the alternatives available, and recommendations.

Councilman Hammond stated that the property owners on McHenry Ave. should recognize the fact that the widening project should proceed as rapidly as possible to avoid the establishment of no parking on both sides of the street.

Mr. Carmody reported that he had discussed the possibility of the State establishing no parking between 4 P.M. and 6 P.M. zones on both sides of McHenry Ave. from Needham to MID No. 4 with the Division of Highways office recently. The State had advised that the city should initiate the establishment of this type of zones.

The Council agreed that this should not be considered at this time.

## MOTION

That the staff contact the property owners on these streets and make a further report to the Council on its findings and recommendations.

Moved by Arata      Seconded by Robinson      Unanimously carried

APPROVE LEASE WITH IRVIN V. SNEDIGAR 5-77

The City Attorney presented for Council approval lease agreement between the City and Irvin V. and Meredith J. Snedigar, for the rental of city property on McHenry Avenue.

## RESOLUTION NO. 58-105

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND IRVIN V. AND MEREDITH J. SNEDIGAR FOR THE RENTAL OF CITY PROPERTY ON McHENRY AVENUE

Introduced by Robinson      Seconded by Mayor Marks

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

APPROVE MEMORANDUM OF AGREEMENT FOR EXPENDITURE OF GAS TAX ALLOCATION FOR MAJOR CITY STREETS 5-90

## RESOLUTION NO. 58-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO ADOPTING BUDGET AND APPROVING MEMORANDUM OF AGREEMENT FOR EXPENDITURE OF GAS TAX ALLOCATION FOR MAJOR CITY STREETS

Introduced by Robinson      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None      Absent: Anderson

FILING OF CAPITAL IMPROVEMENT PROGRAM REPORT 1958-59 THROUGH 1963-64 PLANNING COMMISSION 5-95

Copies of this report were distributed to the Council members.

The City Manager pointed out that 1) the Planning Commission was taking some time to study the report and would possibly make some recommendations to the Council, 2) these proposals have been developed over a period of many months and the projects, as they now stand, and the estimates will have to be revised in light of changing conditions and costs. Until the projects are adopted in a form of a budget or official program by the city, they are only a suggested program and in some cases possibly beyond what the city can reach, but it is, in almost all cases, with the ability of the city to complete. The order as proposed by the staff is now ready for consideration both by the Commission and the Council.

He suggested that the Council members contact the Planning Department if they had any questions.

TODD ROLAND REQUESTS IMPROVEMENT OF PEARL STREET 5-120

Todd Roland, 1502 Concord, requested that Pearl Street bordering his property between College and Concord (north of the Mormon Church) be improved.

Director of Public Works Ray stated that since the area was annexed the city had promised to oil the street, after the necessary land was dedicated and curbs and gutters installed. The land has now been dedicated but the curbs and gutters have not yet been installed. The use of a blade on the street, as requested by Mr. Roland, would only increase the problems. The MID district line on Pearl Street has been abandoned and would no longer present any improvement problem.

The Council suggested that Mr. Roland contact the other two property owners on the street regarding the installation of curbs and gutters so that the city could improve the street, in line with its existing policy. The staff was directed to work with the property owners on a program for installing curbs and gutters.

ADDITIONAL ONE WAY STREETS 7-03

To a question from Mayor Marks, Mr. Carmody considered that it was not yet the proper time to install additional one-way streets.

REPORT ON 6" WATER LINE IN MUNICIPAL GOLF COURSE 7-10

The City Manager reported that the lowest bid received by the city for the installation of a 6" water line in the Municipal Golf Course was \$3821, which had been rejected and the work ordered done by city forces. The city's estimate was \$2427.50 and the actual cost by city forces was \$1561.13, he reported.

Mr. Ray reported that although the work had been done under adverse weather conditions, it had been completed ahead of schedule. Mr. Chet Watson, foreman on the job, and the entire crew were commended on their work by members of the Council.

CITY MANAGER REPORT ON WATER SITUATION IN CITY 7-20

The City Manager reported that the city crews were working day and night to keep the water situation, caused by the continued storms, under control. A constant check is being made with people knowing about the water situation "up the line" and the city is keeping in readiness to the best of its ability to meet any situation which might arise.

REPORT ON PROPOSED PROCEDURE FOR SALE OF CITY HALL BONDS 7-40

The City Manager reported that copies of proposals received had been transmitted to the Council members previously. The procedure suggested by R. H. Moulton & Company seems to be satisfactory, he reported. The approximate cost for the preparation of the official fiscal statement by this firm will be of the order of \$700 or \$800. This must be done but the city will not need the type of counsel which is offered by some of the other firms, he stated. He suggested that the city proceed on this conservative basis as the city's credit was good and the city has been assured by competent people that there is a demand for this type of bond. He recommended that the staff be authorized to proceed on this basis as promptly as possible.

He called attention to the schedule prepared by the company which was for serial issues of 20 years and 25 years. It could be arranged for a 15 year schedule if the Council so desired. If some of the later bonds are to be "callable", this must be decided also but this tends to increase the interest rates.

MOTION

That the city accept the voluntary services offered by R. H. Moulton & Company under its letter of March 31, 1958 to City Manager Ross Miller and proceed in accordance with the procedure recommended and use the company's statistics for the preparation of the report requested by the Council.

Moved by Merrill      Seconded by Arata      Unanimously carried

MOTION

That the staff prepare for Council consideration amortization schedules for bonds issued on both a 15 year and 20 year basis.

Moved by Adams      Seconded by Merrill      Unanimously carried

REPORT ON PROPOSED REALLOCATION OF POSITIONS IN THE POLICE DEPARTMENT 7-115

Police Chief Bowers reported on the proposed reallocation of positions in the Police Department which called for the replacement of the young Police Clerk Dispatchers with older experienced Police officers.

The City Manager pointed out that there would be some difference in salary but it would mean increased service to the public.

The Council indicated its approval of this proposal.

PROGRESS REPORT ON ANALYSIS OF CITY HALL FINANCING 8-27

This report was held over.

NOTICE OF HEARING BY P.U.C. ON APPLICATION OF SOUTHERN PACIFIC CO. 8-30

The Council noted receipt of copies of public hearings before the Public Utilities Commission on applications of the Southern Pacific Company,

- 1- Authority to continue special service charges for coach passengers on San Joaquin and Sacramento Daylights;
- 2- Authority to discontinue the operation of passenger trains No. 59 and 60.

No action was taken by the Council.

ADJOURNMENT

MOTION

That this meeting now in session be adjourned.

Moved by Adams      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 6:00 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

Council Meeting  
April 9, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Hammond, Robinson, Mayor Marks

Absent: Councilmen: Anderson, Arata, Merrill

Councilmen Arata and Merrill arrived at 7:35 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Wendell Kramer gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of March 19, March 26, and adjourned meeting of March 26, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM THE MODESTO BAND, INC. 1-25

The Band expressed its appreciation for the \$1200 donation for the fiscal year 1957-58 and requested that a like amount be budgeted for the next fiscal year. The Council ordered that the request be considered at the time of the regular budget hearings.

#### LETTERS RELATING TO BUSINESS LICENSE ORDINANCE 1-30

A letter was read from Harold Simidian, operating the Modesto Steam Laundry, protesting to the placing of laundries and dry cleaners in the service group in the proposed business license ordinance, which would require payment of 2 mill license fees. He asked to be notified when this matter was discussed by the Council.

A letter was read from John E. Gorman, operating the Bradbury Dry Cleaning and Shirt Laundry, protesting to including these types of business with professional groups and to the proposed \$25 registration for each branch location. He stated that these locations were only used for the convenience of customers to pick up and give out garments processed in the main plant. He believed that the registration fee for the branches should be reduced and that those businesses having branch stores be reclassified so that "one reasonable license fee be paid which will include the main plant and all its branches".

City Attorney Allen Grimes suggested that when the Council discussed this matter it might be interested in looking at all the other activities included in this same service classification, as a comparison.

The Council discussed the problems raised by the two letters and considered,

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- 1- That it might be possible to reduce the charges for the branch operations, due to the unique method of operation of these classes of business.
- 2- That the type of businesses placed in the services and professional group in the ordinance was based on personal property tax paid and nature of doing business. The statistics used in classifying these types of business indicated they were in the higher net income group.
- 3- That these types of businesses had a large investment in equipment.

The City Attorney suggested that any consideration on branch offices or stores not be confined to these two types of activities only, but go across the board to anybody who operates a sub-facility where only a limited part of its service is actually rendered. He considered that it seemed reasonable for the Council to consider some type of reduction on the registration fee for the branch offices, and suggested that a proposal be prepared by the staff for Council consideration.

John Gorman, who was present, spoke in opposition to placing dry cleaners and laundries in the 2 mill bracket, due to their high percentage of labor cost.

Mr. Gorman agreed with Mayor Marks that the most important item to be cleared was the registration fee on branch offices, and that the mill license bracket was less important. He considered that the license fees charged outside competitors should be higher to equalize taxation. Mayor Marks asked that the City Manager make a report to the Council on the branch registration fees but no report would be necessary on the protest on the 2 mill license rate but the Council could be thinking about the matter prior to the final adoption of the ordinance.

#### REPORT ON ESTIMATE OF REVENUE FROM PROPOSED BUSINESS LICENSE 2-60

A report on "Estimate of Revenue from Proposed Business License", dated April 9, 1958, from the Finance Director to the City Manager was read, copies distributed to the Council members and a copy placed on file with the records of this meeting.

The report indicated that a re-appraisal of revenue estimates from the proposed tax structure based on 1955-56 business would reduce revenue by approximately 7% over the present ordinance if the change in business license tax structure had been in effect during the fiscal year 1957-58, the reduction would have resulted in an estimated loss of revenue of about \$16,700.

Mayor Marks believed that in order to have a true picture of the entire situation that a similar report should have been made on the income from sales tax. The City Manager stated that sales tax was running below the estimates, and pointed out that the Council had originally started out to prepare a schedule for business license fees which would bring in the same revenue but it has now been reduced to the point where in the staff's best estimate, it would bring in \$16,700 less than the old business license ordinance.

Mayor Marks pointed out that the Council was not considering money only but equity as well, in revising the business license ordinance. The Council tried to raise the same amount but found a lot of inequities and "now had a pretty good proposed business license ordinance".

Councilman Hammond stated the Council recognized the revenues on the business license fees would be reduced and Councilman Arata stated "we will have to do some cutting on some other things".

Councilman Arata considered that the city would have to have a concentrated program on "catching the people who were operating in the city without a license and in competition with the local concerns". He stated that there were a large number of produce trucks coming in the city and "crucifying the local merchants". The Council agreed that this matter would be considered at budget hearings.

No action was taken on the report, and it was agreed that it would be taken in consideration along with other matters at budget hearings.

The City Attorney reported that the first draft of the proposed business license ordinance was now in the hands of the Director of Finance and it was possible that within one or two weeks copies would be available for Council consideration.

LETTERS REGARDING LEASES IN RIGGS BUILDING 3-20 (LETTER RE: STATE HIGHWAY)

With the unanimous consent of the Council, Mayor Marks read letters which had arrived too late to be placed on the agenda.

- 1- Letter from Myra Harp, lessee of store in the Riggs building advising she had closed her store at 907 I Street and vacated the building, due to low profit in her Clothing Store.

MOTION

That the request of Myra Harp for the cancellation of the lease be denied and that the staff be instructed to collect the rent from Mrs. Harp and enforce the lease.

Moved by Arata      Seconded by Merrill      Unanimously carried.

- 2- Letter from Attorney Robert B. Fowler advising that his client Ernest M. Gerisch, lessee of store room situate at 913 I Street in the Riggs Building, intended to sub-lease a portion of this property under rights accorded to him by the terms of said lease to C. S. Greenlaw.

The City Attorney stated that it required no action by the Council.

- 3- Letter from West Modesto Improvement District (3-92) calling the Council's attention to the poor condition the state's property was being left in by the removal of houses along the new 99 freeway route and asking that the city protest this condition to the State Highway Commission.

MOTION

That the staff be instructed to follow through with the suggestion in the letter and make a report to the Council.

Moved by Merrill      Seconded by Hammond      Unanimously carried

FINAL ADOPTION OF ORDINANCE NO. 234-C.S. TRAFFIC & PARKING REGULATIONS 3-109

A letter from Vernon F. Gant was read protesting to the provision in the new traffic and parking regulation ordinance which made it illegal not to lock the ignition of a car while it was parked on a public street, alley or public parking facility. The City Manager stated a phone call had also been received protesting to the same provision.

The City Manager suggested that the Council adopt the ordinance at this time since it had already been published, and any changes which it wished to make be made by the adoption of an amendment.

The high incidence of juvenile theft caused by persons leaving car keys in the ignition was discussed by the Council. It was agreed that the ordinance remain "as is", and that the City Clerk advise Mr. Gant of the Council's action.

ORDINANCE NO. 234-C.S. entitled

PAN ORDINANCE AMENDING CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE BY ADDING ARTICLES I THROUGH 16, BOTH INCLUSIVE, THERETO, RELATING TO TRAFFIC AND PARKING REGULATIONS, AND REPEALING CHAPTER 6 OF TITLE III AND SECTION 3-2.01 OF SAID CODE"

introduced on April 2, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill                      Seconded by Robinson

Ayes: Adams, Hammond, Merrill, Robinson, Mayor Marks

Noes: Arata                              Absent: Anderson

INVITATION FROM LEAGUE OF WOMEN VOTERS 4-52

With the unanimous consent of the Council, Mayor Marks was permitted to present a matter not on the agenda-----invitation from the League of Women Voters to attend a panel meeting on the Preliminary General Plan of Stanislaus County, in the MID building on April 14, at 8:00 P.M.

REPORT ON CITY HALL FINANCING 4-52

Pursuant to Council direction, the City Manager reported on city hall financing. He pointed out that the clearing of two matters would assist the staff, 1) scheduling of the bonds, and 2) allocation of parking at the city hall.

He reported on alternates in scheduling the city hall bond issue on a 15 or 20 year schedule, copies of which were distributed to the Council members. The letter from R. H. Moulton & Company was read. The Company considered that it would be a disadvantage and increase the city's costs to make some of the bonds callable, particularly on a 15 year schedule.

The City Manager suggested that in view of the general situation and other needed improvements in the community that the schedule be on a 20 year basis, which would call for the payment of \$65,000 annually to retire the bonds.

Councilman Hammond favored the 15 year schedule to reduce the interest costs.

Councilman Arata spoke in support of the 20 year basis. The Council generally agreed that the callable feature be eliminated in the schedule.

Councilman Robinson suggested a 15 year schedule which would reverse the <sup>annual</sup> total charges so that lesser annual payments could be made for the first few years and increased payments be made at the end of the 15 year term when the city's population was larger. He asked for the preparation of a chart by the staff on this basis.

Councilman Arata pointed out that the city was already committed to other projects such as the 18 hole golf course which would call for large expenditures and the city should not penalize itself on a program for large payments on the city hall which might curtail other improvements which are badly needed by the city.

The City Manager pointed out that the biggest commitment which the city has not yet resolved is the golf course which should be done within at least two or three years. He pointed out that the interest costs would be increased but it would be possible to arrange a 15 year schedule providing for lower payments for the first few years, as suggested by Councilman Robinson. He stated that a report would be given the Council on the city's debt limit.

It was agreed by the Council members that they would study the various schedule alternatives during the week and that the staff should prepare and submit a report on a 15 year schedule which would reverse the payments.

The City Manager noted that the reason the city was committed on the 18 hole golf course was because of the very fine gift of land to the city by two public spirited citizens---Mr. and Mrs. Horace Dryden.

#### Allocation of parking at city hall 6-20

The City Manager distributed copies of a report on Parking Space Requirements---new City Hall, dated April 9, 1958. He recommended that 16 parking spaces be purchased for official use and in lieu payments for an additional 31 spaces be made by the City. The in lieu payments would be \$23,250 and estimated cost for 16 spaces \$50,000 or a total approximating \$75,000. He pointed out that this action would comply with the spirit of the zoning ordinance. Before any action is taken on this recommendation, the City Manager stated, a current report will be made on parking funds expended on the city hall property lot.

The possibility of transferring the 15th Street parking lot which was purchased out of general funds to be used for a city hall site, over to the parking lot fund, was raised.

#### APPROVE PAYMENT OF CITY'S SHARE OF COSTS FOR INSTALLATION OF TRAFFIC SIGNALS AT McHENRY AND ORANGEBURG AVENUES 6-100

The City Manager reported that the city's cost of traffic signals and lighting installation by the State, at the intersection of Orangeburg Ave. with McHenry Avenue was 25% of the total cost or \$3,145.38.

#### MOTION

That the payment of \$3,145.38 to the State of California, Department of Public Works, Division of Highways, District X, Stockton, be authorized.

Moved by Merrill      Seconded by Robinson      Unanimously carried

#### APPROVE CONSTRUCTION OF 10 UNIT T HANGAR AT CITY-COUNTY AIRPORT 6-105

The City Manager reported on the demand for additional hangars at the City-County airport. Ten aircraft owners have deposited advance rentals for three year periods, based on a monthly rental fee of \$25, making a total deposit on file with the city of \$9,000. The estimated cost of constructing a 10 unit T hangar is approximately \$30,000.

Mr. Ray stated that due to the expansion of private ownership of

aircraft at the airport there was a current need for at least one additional 10 unit hangar building. He reported on funds which could be made available, with Council approval, for the construction of the hangar, as outlined in his report to the City Manager dated April 9, a copy of which is enclosed with the records of this meeting.

The City Manager distributed a summary of the status of the capital outlay fund as of March 31.

Councilman Arata recommended that the hangar rent be increased to conform with rents paid by private owners at other cities.

Airport Manager Harry Sham considered that the \$25 monthly rental for T hangars was in order but that the rental fee should be increased possible 10% or 20% on some of the larger hangars. He pointed out that the proposed 10 unit T hangar would pay out in approximately 10 years which represented a good investment for the city.

Councilman Arata asked Mr. Sham to check on some of the rental fees paid by other cities. Mayor Marks asked the staff to submit a report on rents paid by private owners for rental of hangars and make a recommendation on whether rents should be increased on some of the present hangars. Airport Manager Sham reported on the matter and stated that any increase in the number of planes operating from the airport would mean more revenue to the city from the sale of gasoline. The city now received 2¢ per gallon of gas sold and the average income to the city for the past 12 months is approximately \$300 per month.

The City Manager recommended that the following funds be used in the construction of the hangar:

1- Advance rentals from aircraft owners-----	\$9,000.00
2- Airport gas tax fund-----	3,897.65
3- Balance in special capital outlay fund from purchase of street sweeper-----	2,942.45
4- From water company survey fund under special capital outlay-----	4,160.00

which would leave a balance of approximately \$10,000 to be provided from some other unexpended balance of the capital outlay for some other project not yet started or which could not be completed in this fiscal year.

After a general Council discussion it was agreed that the allocation for the construction of the new fire station in the McHenry Village area should be reduced by \$10,000.

#### MOTION

That the staff be directed to proceed with the plans and specifications for the construction of the 10 unit T hangar building and present the necessary appropriation transfer of funds for Council approval.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

#### INTRODUCE GUEST OF COUNCIL. 6-05

Dick Cross, intern at the Coro Foundation, was introduced by the City Manager.

MAYOR MARKS PRESENTATION AT REGIONAL CITIZEN LEADERSHIP CONFERENCE 8-10

Copies of the presentation made by Mayor Marks at the 1958 Regional Citizen Leadership Conference (President's Committee for Traffic Safety) held in San Francisco on April 9, were distributed to the Council members.

PRESENTATION OF ACCIDENT REPORT SUMMARY FOR 1957 8-11

The City Manager noted that copies of the report on accidents involving city personnel and equipment for the year 1957 prepared by the Personnel office had been distributed to the Council members.

REPORT ON FLOOD CONDITIONS IN CITY AND EFFECT ON CURRENT OPERATIONS AND PROJECTS 8-25

The City Manager reported that the League of California Cities had requested that the Council bring to the attention of the Legislators the estimated damage caused in the city by the recent rains on the basis that there might be a reimbursement program at a later date. The staff has advised that at present precise details are not available but that there has been substantial damage.

Mr. Ray reported that since April 1, the city has had 4.77 inches of rain, the majority of this came on April 2. During the time since the first of the month, the city has expended 1329 man hours and 2124 equipment hours just fighting flooded conditions, including barricading, pumping, etc. Most of this time was on "around the clock basis". The last pumping of water was completed today, he stated. In the same period of time 790 man hours and 500 equipment hours was spent on repairing of streets. A lot of damage has been done due to flooded street conditions and the ground is so soft that this damage is continuing under normal traffic conditions. The taxiway and runway airport project, to date, has lost a total of 40 working days, which means that, if it is needed, the contractor is entitled to that much extension of time. The contractor on the ball park remodeling project has worked under adverse conditions in order to try to complete the job in time for the opening date. He has asked today for an extension of 17 days and it is recommended that this be granted because he has actually lost about 20 days.

In connection with the ball park, Mr. Ray reported, the city had left out one item from the contract and proposed to do it with city forces--- rebuilding of a section of the high fence which was burned out. Since so much time has been lost in other work and since so much overtime has been built up, some time must be given off to city personnel. It is now suggested that the fence be completed by the contractor and that a change order be issued. The contractor has offered to do the work for \$635. The second change order of \$522 would be for a back stop on top of the screen to prevent foul balls from rolling back onto the customers. The third change order, which has already been issued, is for \$110 to revise the shutters on the concessions in order that they would open in instead of out. It was necessary to make this decision at a time when it was not possible to present to the Council. He pointed out that the money would be available in the project and it would not be necessary to appropriate additional funds from the Capital Outlay Fund.

## MOTION

That the issuance of the change orders as outlined by the Director of Public Works be authorized.

Moved by Merrill

Seconded by Arata

Unanimously carried

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Mr. Ray reported that some comment had been made by the general public that the recent storm was a 100 year storm and in a sense this is true but in respect to the designing of storm drains, it is not. If storm drains had been built in the northern section of the city, designed on a 2 year storm there would have been only a 15 minute period during the height of the heavy rain April 2, which exceeded in intensity a 2 year storm. It is the intensity which is important, he pointed out, and not the duration of the storm.

The City's drainage design for the upper reaches of the section even though on a 2 or 5 year storm actually is about 5 to 10 years storm. In the lower section of the trunk lines it gets down to more truly a 2 year storm and that is an intensity of three tenths of an inch per hour. At the height of the recent storm there was a period of approximately seven tenths of an inch per hour.

The City Manager expressed appreciation to the employees who had worked "around the clock" during the recent storm. He considered that the emergency had been very well handled by the various crews.

The City Manager pointed out that there was the finest kind of co-operation between agencies during the past emergency, the county, M.I.D. and city. He noted that Mr. Ray had sent a letter of thanks to Engineer Cliff Plummer of the M.I.D. The pump installed by the city on the M.I.D. canal No. 4 at 99 highway was very effective in relieving the surrounding area during the peak of the storm.

He reported that the city had offered its full assistance on the civil defense work which was carried out during the emergency under the direction of Defense Coordinator Tom Bright of the County staff. All that was requested of the city was done and it was determined that when a person is responsible for this type of operation and knows how to do it and is doing his best to do it, one of the greatest services to be rendered is "to stay out of their hair" and furnish what help is requested.

He stated that many city projects would be delayed for approximately a month due to the storms, not only construction projects now underway, but plans for new projects not yet started, such as the new fire station, remodeling of the old police building. He reported that the report requested by the Council on the sales tax was progressing and would be ready soon.

Mayor Marks, on behalf of the Council, commended the city crew for the "well done job" on removing water out of the streets.

#### PRESENTATION OF FINANCIAL STATEMENT FOR MONTH OF MARCH, 1958

Copies were distributed to the Council members.

#### OPENING OF BALL SEASON 9-25

The Council discussed the possibility of adjourning the Council meeting of April 23 to permit the members attendance to the opening ball game of the Modesto Reds being played at Del Webb Field. It was agreed that the Council would work out arrangements prior to April 23 meeting.

#### ADJOURNMENT

#### MOTION

That the Council meeting now in session be adjourned.

Moved by Merrill— Seconded by Arata Unanimously carried

The meeting was adjourned at 9:40 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk


This being the time set for a regular meeting of the Council of the City of Modesto, as provided by Section 2-1.01 of the Modesto Municipal Code, the City Clerk called the roll.

Present: Councilmen: None

Absent: Councilmen: Adams, Anderson, Arata, Hammond, Merrill, Robinson, Mayor Marks

The City Clerk adjourned the public hearing on the proposed annexation of the Paradise Center Addition to the City of Modesto, scheduled for 8:00 P.M. this date, until 4:30 P.M., May 7, 1958.

Pursuant to Section 2-1.07 of the Code, the City Clerk adjourned this meeting until May 7, 1958 at 4:00 P.M. The Council members previously waived written notice of this adjournment, as provided by this section of the Code.

ATTEST:   
Rex E. Galifus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Hammond, Mayor Marks

Absent: Councilmen: Anderson, Merrill, Robinson

Councilman Merrill arrived at 4:20 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Fike gave the invocation.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of April 2, and the same being available for public inspection and there being no objections, the minutes were approved.

REQUEST OF TRI-Y-SIGMA PHI CLUB TO USE SIDEWALK AREA FOR PENNY MARCH HELD OVER 1-36

A letter was read from the Tri-Y-Sigma Phi Club requesting permission to hold a penny march, Saturday, May 10, and use a tape on the sidewalk near the J. C. Penny Co. store on 11th and J Street for the collection of funds to be donated to the Y.M.C.A. World Service.

City Manager Ross Miller reported that some other suggestions had been made for the conducting of the penny march and suggested that the matter be referred to the staff for investigation and report. It was so ordered by the Council.

INVITATION TO ATTEND ASSEMBLY INTERIM COMMITTEE ON REVENUE AND TAXATION HEARING 1-38

An invitation to attend a public hearing being held by the Assembly Interim Committee on Revenue and Taxation, through its subcommittee on Public Indebtedness, being held in Richmond City Hall, Civic Center, May 23, was read and referred to the staff.

LETTERS FROM SENATOR THOMAS H. KUCHEL AND CONGRESSMAN JOHN J. McFALL RE: CITY'S REQUEST FOR REPEAL OF TELEPHONE EXCISE TAX 1-44

These letters were read and ordered filed.

INVITATION FROM COUNTY BOARD OF SUPERVISORS TO COUNCIL TO MEET AND DISCUSS DIFFERENCES OVER SALES TAX 1-60

A letter from E. W. Hane, Chief Administrative Officer of Stanislaus County, was read, inviting the Council members to attend a meeting with the Board of Supervisors at 10 A.M., Monday, April 21 in the Board Chamber to discuss the sales tax problem.

REQUEST FROM CHAMBER OF COMMERCE FOR ADDITIONAL CONTRIBUTION

A letter was read from the Modesto Chamber of Commerce/for an additional contribution of \$1,000 for industrial and public improvement promotion for fiscal year ending June 30, 1958. asking

## RESOLUTION NO. 58-107

A RESOLUTION APPROVING ADDITIONAL CONTRIBUTION TO THE MODESTO CHAMBER OF COMMERCE OF \$1,000 FOR INDUSTRIAL AND PUBLIC IMPROVEMENT PROMOTION AND AUTHORIZING APPROPRIATION FROM GENERAL RESERVE

Introduced by Hammond                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill, Robinson

MAYOR MARKS WELCOMES COUNCIL GUESTS 1-110

Mayor Marks welcomed members of the Bona Fide Club, Junior High Boys of LaLoma, Mrs. Michael Spinelli, Mr. and Mrs. C. C. Reynolds, guests of the Council.

ACCEPT BID OF MODESTO INDUSTRIAL ELECTRICAL COMPANY FOR TRAFFIC SIGNALS AND STREET LIGHTING 1-115

Tabulation of the four bids received for the installation of traffic signals and street lighting at 7th and G Streets, 11th and G Streets and 12th and I Streets, and traffic signals at 10th and G Streets, which had been opened at 2 P.M. April 15 in the City Clerk's office, was considered by the Council.

Director of Parking and Traffic Douglas Carmody recommended that the low bid of \$13,644 submitted by the Modesto Electrical Company be accepted.

## RESOLUTION NO. 58-108

A RESOLUTION ACCEPTING THE BID OF MODESTO INDUSTRIAL ELECTRICAL COMPANY IN THE SUM OF \$13,644 FOR THE CONSTRUCTION OF TRAFFIC SIGNALS AND STREET LIGHTING

Introduced by Arata                      Seconded by Adams

Ayes: Adams, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill, Robinson

ORDINANCE REGULATING INTOXICATION 1-125

Pursuant to Council direction, the City Manager filed a report on the poll of cities in California made by the Police Chief to determine those cities using a "drunk in or upon an automobile" ordinance similar to the one previously discussed by the Council.

Police Chief Bowers reviewed the need for this type of ordinance.

Provisions of the ordinance were read and the wording in subsection (e) was changed to eliminate the words "railroad car". The City Manager pointed out that the previously proposed ordinance had been changed to provide that the regulations would not apply if the "vehicle is under the

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Introduced by Hammond                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Mayor Marks

Noes: None                                      Absent: Anderson, Merrill, Robinson

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Introduced by Arata                      Seconded by Adams

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Noes: None                                      Absent: Anderson, Merrill, Robinson

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Police Chief Bowers reviewed the need for this type of ordinance.

Provisions of the ordinance were read and the wording in subsection (c) was changed to eliminate the words "railroad car". The City Manager pointed out that the previously proposed ordinance had been changed to provide that the regulations would not apply if the "vehicle is under the

immediate control of a person not under the influence of intoxicating liquor".

ORDINANCE NO. 235-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-2.09 OF CHAPTER 2 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO INTOXICATION"

was introduced and ordered printed and published as required by the Charter.

Moved by Adams                      Seconded by Mayor Marks

Ayes: Adams, Arata, Hammond, Merrill, Mayor Marks

Noes: None                              Absent: Anderson, Robinson

DISCUSSION OF SALES TAX

Clifton A. Rooker filed a letter with the Council, signed by a committee of business men, Emmett C. Crandall, Richard Lyng, E. P. Griswold, R. E. Penney, George S. Reynolds and himself, requesting that the city leave the Modesto Irrigation District out of any consideration of the analysis of governmental services, as related to distribution of sales tax. They considered that because the relationship existing between City and County governments was so complex and the inter-relation so involved that it was absolutely impossible to arrive at a hard and fast factual basis for understanding and requested that the Council consider the problem in the light of what was good for the community. They stated that since agriculture constituted the greatest wealth producing enterprise in the city that any position taken which is a rebuff to this group of wealth producing people would be wrong in principle. They asked that the Council maintain a friendly and equitable atmosphere in which people are willing to carry on the normal functions of business.

Mayor Marks reviewed the background of the sales tax matter which he stated had been brought up by the counties and not the cities to provide additional revenue and reduce the ad valorem taxes.

The City Manager pointed out that the city had not received a copy of the open letter by the farm groups to all City Councils in the County which had been published in some of the papers. Mayor Marks reported that he had not received any communication from any other organization except the businessmen anent the sales tax problems.

Pursuant to direction from the Council, the City Manager reported on one phase of the report prepared by the Pacific Planning and Research which appeared to be in error---distribution of the number and amounts of welfare warrants issued to persons living in the Modesto area. He reported that a precise check of all the payments for a full month period in this area showed that 1101 of those having street addresses lived inside the city and 1442 lived outside, actual payments made to those having street addresses inside the city amount to only \$86,202.67, while payments to those having street addresses outside the city amount to \$134,032.20. In summary over 58% of the payments charged to the city in the report actually went to persons living in the unincorporated area. Some of the other cities in the county are making similar tabulations which will be reported later.

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The City Manager stated that this information indicates that "we do not have the facts and we should certainly get them as a basis for action on allocation and use of public funds".

Mayor Marks read the following statement which was adopted by the Council as its expression on the matter:

"The City Council of Modesto offers to all the agencies, groups, or individuals concerned with the uniform sales tax its full cooperation in clearing any misunderstanding or ill-will which has been generated, and indicates its willingness to spend whatever time and effort is necessary to consider with all interested parties all of the facts. Earlier reports to the Council indicated that there were substantial errors in the report of Pacific Planning and Research which made it impossible for the report to be used as a valid basis for any determination. At the direction of the Council, a precise check has been made of the assignment made in the report of welfare benefits between incorporated and unincorporated areas. The conclusions of the report were based on the assumption that all of the people having street addresses lived in cities. Precise, item by item check of these addresses shows that more than half of those having street addresses in the Modesto area live outside the city. This means that in just one month, out of \$228,000 charged to the City of Modesto, \$134,000 actually went to people living outside. We do not see how anyone could reasonably insist that conclusions based on data so much in error could be used as a basis for determining public policy."

"Sam Wood, Resident Director of Pacific Planning and Research, which made the report, has expressed his concern about the effect of such information upon the report and its conclusions and has offered to review and re-evaluate this matter in the light of the corrected information. We are requesting that this be done with the fullest opportunity for others interested to participate and be fully informed. The City Council again wishes to assure all those concerned of its desire to work together as friends and neighbors to clear any misinformation and misunderstanding and to help assure that all of the facts are presented clearly and fully."

#### MOTION

That this statement be adopted as the official expression of the Council.

Moved by Hammond      Seconded by Arata      Unanimously carried

Ken Norris, representing the Stanislaus County Tax Payers Association filed a statement on "Actual and Estimated Sales Tax Revenue Stanislaus County Cities and Unincorporated Area Revised 1957-58 and estimated 1958-59", a copy of which is on file with the records of this meeting. He stated that the point of the report was to fulfill the role it had adopted for itself to develop and publish as many facts as possible on the sales tax question without taking a side either way on the political question and issues involved. The Association still remains in the position of wanting to see peace established on this question and is still more concerned about how this money will be spent in the future. He pointed out that Stanislaus County would receive nearly \$19,000 more than had been estimated in its budget.

Mayor Marks reiterated that "he had never seen the time that men of good faith and good will---if they set down together in complete and intellectual honesty couldn't solve any thing and I know that this one is going to be solved in this way too because everyone here today has good faith and good will".

Mr. Rooker reported that one basis of complaint from his rural customers had been that since the report had been full of errors that some effort should have been made before now to get the true facts and not wait until pressure was put on the cities and county. As a matter of good public relations this should have been cleared before now, he stated. He considered that if the Councils of the various cities and the Board of Supervisors would approach the problem in line with the expression made by Mayor Marks and approved by motion by the Council that it would be incumbent upon all citizens within the county to live according to that determination.

Councilman Hammond answered the questions raised by Mr. Rooker. He pointed out that in arriving at a decision to contract for the report a number of factors were discussed and, as a compromise in order to get the report started, it was agreed county-wide report should exclude districts which were peculiar to certain cities, such as the MID for Modesto, TID for Turlock and a special hospital district for Patterson. It was generally understood by the committee that when this report came up for consideration then these individual communities which were involved with special districts would at their own expense obtain additional information as a final basis upon which to base their decisions. He reported on the meetings held by the Advisory Committee and the action taken by the Committee. He pointed out that the feeling generated at the meeting was that the farm groups, particularly, felt that the report should be accepted. *carta blanche*. The Cities considered that the report could not be accepted in this manner and more facts should be obtained. It was voted by the committee that it be disbanded. This group was the only organized group to discuss this report, he pointed out. After this action by the committee, Councilman Hammond stated, he had recommended to the Council that the city discontinue its study of the report until such time as it came up for further discussion.

Mr. Rooker reported that the local businessmen had run into this position---that in the original conversation between cities and county there was an agreement that when the report was made it would be used as a basis for determining the division of sales tax. This is the feeling of many people in the rural area and the city is now being accused of breaking faith with its rural friends.

The City Attorney pointed out that from the legal point of view the agreement between the City and County did not impose any legal obligation upon the contracting parties to revise the distribution of the sales tax but that the parties who entered into the agreement would consider the report in relation to the subject. He stated that no breach of the agreement had occurred.

Councilman Hammond stated that the cities and county had agreed that this report would be used as a basis of further negotiation, and it was recognized that the report could not be binding on any legal matter which was discussed at the meetings of the County Advisory Committee.

Joe Hart, a rural resident of the county, conceded that there was no legal obligation to accept the report but that he would assume that there was a moral obligation and the rural residents had proceeded along that line. He stated he had "not officially or otherwise contacted the City Council heretofore". Since the City of Modesto representatives on the Advisory Committee indicated they did not wish to proceed on the report, he stated, the only recourse was to go to the rural resident of the County, which was done. He expressed approval of the Council's expression of cooperation issued previously in the meeting.

The company preparing the report had admitted that there might be errors in the report but there would be compensating errors, Mr. Hart stated. In order to get exact figures on all the city-county operations it would be very costly. If this report is one that would not do credit to the organization which prepared it, that organization might be required to make another

complete report as to errors which are decidedly out of line. The rural people feel that their money is being spent for the government of the City of Modesto and would like to have some feeling that they have a share in that enterprise and have some rights.

C. A. Talbott considered that the city was receiving benefit from the welfare funds which were being distributed in the county area but being spent in the City of Modesto. He considered that if the welfare funds were going to be reconsidered that all other compensating factors in the report should be reconsidered. He stated that his group would insist that the city take into consideration secondary and tertiary beneficiaries. To a question from Mayor Marks, Mr. Talbott stated he would have no objections to the cities and county getting all the facts.

Joe Hart pointed out that getting all the facts would be very expensive and time consuming. He considered that there was enough intelligence represented in the city and county officials to arrive at a satisfactory solution, rather than conducting another expensive study by experts.

The City Manager invited the rural representatives and businessmen to go over the material on the welfare funds with the city staff.

Wes Sawyer, rural representative, considered that time was more of an essence in this matter than had been indicated by the discussion. If it is planned to make an extensive study, the rural people will not sit with the present division, while the study is being accomplished. The city's good faith could be evidenced, if a long study is planned, by changing the percentage of allocation to some other more satisfactory figure for the rural people. The rural people are not going to continue to allow this imposition, he stated.

Councilman Hammond pointed out that the cities were not the ones who had initiated the sales tax bill. It was a fund raising means for the counties. The cities were satisfied with their present sales tax program and the counties were asking assistance from the cities to grant them the privilege of collecting the sales tax, as provided by state legislation. He pointed out that Mr. Sawyer had correctly indicated the temper of the Advisory Committee's last meeting---they felt that the cities were stalling. The functions and manners in which things flow through government channels, he stated, are very trying and fretful because it takes time. In an legislative process, if one error is made it can haunt a person for not only the length of his term but for all those succeeding persons filling the positions on the Councils and Boards. The law provides for a reasonable and sometimes a tedious process of review for all the facts before action is taken. These things cannot be legislated without facts. He reminded Mr. Sawyer that a Councilman would be personally liable for the wrongful disbursement of funds. Funds cannot be disbursed without qualified facts to back them up and it takes time to get the facts. This matter is somewhat of an extra matter and the staff has other daily governmental functions which must be taken care of. The complete organized government machinery is not going to be stopped to answer the threats of individuals or groups.

The City Manager suggested that copies of all the information the city had and could get, be made available to the rural representatives and that some of the members of the Council or himself be asked to speak before the various farm bureaus to explain the city's position to get the facts straight. The Council indicated its approval of this procedure.

Mayor Marks assured the groups that the City of Modesto does not want one cent that is not equitable or morally hers.

HEARING ON PROPOSED AMENDMENT TO ZONING REGULATIONS 7-110

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for the public hearing on the proposed amendment to zoning regulations.

The City Clerk filed a certification that the notice of the hearing had been published in the manner and for the time prescribed by law and that no written protest had been filed.

Mayor Marks asked if anyone wished to make any comments or file any protests. No comments were made or protests filed. Mayor Marks declared the hearing closed.

## ORDINANCE NO. 236-C.S. entitled

"AN ORDINANCE AMENDING SECTION 10-2.901 OF ARTICLE 9 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE; AMENDING SECTION 10-2.1001 OF ARTICLE 10 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE; AND AMENDING SECTION 10-2.1101 OF ARTICLE 11 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE, RELATING TO ZONING REGULATIONS"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata           Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Mayor Marks  
Noes: None               Absent: Anderson, Robinson

NOTICE OF PUBLIC UTILITIES COMMISSION HEARING ON APPLICATION OF BUMGARDNER WATER COMPANY TO INCREASE WATER RATES 7-120

The notice of hearing to be held in San Francisco on May 21 at 9:30 A.M. was noted by the Council and ordered filed.

APPROVE APPROPRIATION TRANSFER OF \$6,000 FROM SERVICE DIVISION EQUIPMENT RENTAL CREDITS 8-01

## RESOLUTION NO. 58-109

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$6,000 FROM SERVICE DIVISION-EQUIPMENT RENTAL CREDITS TO SERVICE DIVISION-EQUIPMENT PARTS FOR SERVICE WORKING CAPITAL

Introduced by Adams       Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Mayor Marks  
Noes: None               Absent: Anderson, Robinson

CONSIDER REQUEST OF MODESTO REDS TO RELAMP FIELD LIGHTS 8-15

The City Manager reported that the Modesto Reds Baseball Club had requested assistance in relamping the field lights at Del Webb Field, City personnel are requested to replace all the lamps in the high poles with new lamps.

The City Attorney pointed out that if the agreement with the club called for the maintenance of the field by the club, it would not be possible for the city crew to do the work without compensation.

It was agreed by the Council that since the agreement did provide the club to maintain the lights, the city would agree to change the lamps for an agreed cost.

## MOTION

That city personnel be authorized to relamp the field lights at Del Webb Field for the Modesto Reds Baseball Club if the city is compensated for the time involved.

Moved by Arata      Seconded by Merrill      Unanimously carried

GRANTING CONSENT TO ERNEST GERISCH, ET UX TO SUBLEASE A PORTION OF THEIR LEASED PREMISES IN THE RIGGS BUILDING 8-52

## RESOLUTION NO. 58-110

A RESOLUTION GRANTING CONSENT TO ERNEST M. GERISCH AND ELIZABETH GERISCH TO SUBLEASE A PORTION OF THEIR LEASED PREMISES IN THE RIGGS BUILDING

Introduced by Merrill      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Mayor Marks  
 Noes: None      Absent: Anderson, Robinson

GRANT PERMIT TO DISPOSE OF PARKING SIGNS BY INFORMAL BIDS 8-55

The City Manager reported that the city owned 237 parking signs which had to be replaced with new signs because of the city's all night parking provision and requested authorization to ask for informal offers from other cities. The City Attorney advised that this procedure would be in order but when offers had been received an ordinance would be necessary before the sale could be consummated.

## MOTION

That the staff be authorized to proceed on the basis outlined by the City Manager.

Moved by Adams      Seconded by Arata      Unanimously carried

REPORTS FROM PLANNING COMMISSION 8-60

The City Manager reported that no reports would be made at this time by the Planning Commission.

PROGRESS REPORT ON CITY HALL PLANNING AND FINANCING 8-65

The City Manager distributed copies of a report on "City Hall Financing Report", dated April 15, 1958, to the Council members for study and consideration at a later time. He pointed out that the two points which must be cleared by the Council were:

- 1- Provision in contract for construction of city hall and garage for later completion of the parking garage and earlier acceptance of the city hall building in view of the city's lease with the county on the old MID building;
- 2- Provision for the demolition of the MID building to be included in the City Hall building contract.

Copies of a report from the City Manager, dated April 15, on "Possible Delay in Completion of Parking Garage--City Hall" were distributed to Council members.

NOTICE OF CENTRAL VALLEY DIVISION OF LEAGUE OF CALIFORNIA CITIES MEETING IN MERCED 8-90

The Council noted invitation to attend the quarterly meeting to be held in Merced on April 24.

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REPORT ON FLOOD CONDITIONS BY CITY MANAGER 8-92

With the unanimous consent of the Council, the City Manager was permitted to report on the flood conditions in the city. He reported that detailed estimates of the damage were being prepared for Council information and would be sent to the proper state and federal groups. He reported that the County had been granted permission, during the middle of the recent flood, to use the city's dump grounds on an emergency basis since its dumps were flooded over and are still under water. Regular dumping fees are being paid and the county has been advised that the dumping should be discontinued as soon as possible.

ADJOURNMENT

## MOTION

That this meeting be adjourned until 4 P.M., Wednesday, April 23.

Moved by Merrill      Seconded by Arata      Unanimously carried

The meeting was adjourned at 6:00 P.M.

ATTEST:

*Rex E. Gallus*  
Rex E. Gallus, City Clerk

Adjourned Council Meeting  
April 23, 1958

The Council of the City of Modesto met in adjourned session this date at 4:00 P.M., having adjourned from the Council meeting of April 16, as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Hammond, Merrill, Robinson and Mayor Marks

Absent: Councilmen: Adams, Anderson, Arata  
Councilman Adams arrived at 4:11 P.M.  
The pledge of allegiance to the flag was given by all those present.

Rev. Dale Sherwood gave the invocation.

No dissent was expressed by the Council to consider additional items on the agenda.

PRESENTATION OF DIVIDEND CHECK FROM STATE COMPENSATION INSURANCE FUND 1-10

John L. Sheehan, District Manager of the State Compensation Insurance Fund, presented a dividend check of \$7,768.43, for the fiscal year 1956-57 and congratulated the city on its efforts in safety which had made the refund possible.

LETTER FROM FRANK ANDREWS REGARDING SUPERVISION OF UTILITIES USING CITY STREETS AND ALLEYS 1-32

The letter was read and referred to the city staff to determine if anything should be done.

The City Manager pointed out that the Modesto Irrigation District was installing the underground vault in advance in the alley in back of the new City Hall, which had caused the alley to be torn up.

RESIGNATION OF RICHARD W. THOMPSON FROM THE BOARD OF PLUMBING EXAMINERS 1-50

A letter was received from Richard W. Thompson submitting his resignation from the Board of Plumbing Examiners, effective April 14, 1958.

RESOLUTION NO. 58-111

A RESOLUTION ACCEPTING THE RESIGNATION OF RICHARD W. THOMPSON FROM THE BOARD OF PLUMBING EXAMINERS OF THE CITY OF MODESTO

Introduced by Merrill      Seconded by Robinson

Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None      Absent: Anderson and Arata

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS ON INSTALLATION OF WATER LINES ON GRANGER AVENUE 1-125

RESOLUTION NO. 58-112

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF WATER LINES ON GRANGER AVENUE BETWEEN TULLY ROAD AND COLLEGE AVENUE AND BETWEEN T.W.S.R.R. AND SHERWOOD AVENUE

Introduced by Hammond      Seconded by Merrill

Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None      Absent: Anderson and Arata

**FINAL ADOPTION OF ORDINANCE NO. 235-C.S. REGULATE INTOXICATION IN OR UPON A VEHICLE 2-01**

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**ORDINANCE NO. 235-C.S., entitled**

**"AN ORDINANCE AMENDING SECTION 4-2.09 OF CHAPTER 2 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO INTOXICATION"**

introduced on April 16, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Adams                      Seconded by Mayor Marks  
Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None                      Absent: Anderson and Arata

**FINAL ADOPTION OF ORDINANCE NO. 236-C.S. AMEND ZONING REGULATIONS (FARM MACHINERY EQUIPMENT) 2-05**

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**ORDINANCE NO. 236-C.S. entitled**

**"AN ORDINANCE AMENDING SECTION 10-2.901 OF ARTICLE 9 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE; AMENDING SECTION 10-2.1001 OF ARTICLE 10 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE; AND AMENDING SECTION 10-2.1101 OF ARTICLE II OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE, RELATING TO ZONING REGULATIONS"**

introduced on April 16, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill                      Seconded by Adams  
Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None                      Absent: Arata and Anderson

**APPROVE LEASE FOR RENTAL OF HOUSE OWNED BY CITY AT 1728 COLLEGE AVENUE TO JIM AND PATRICIA HERRON 2-06**

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Terms of a lease for the rental of the city's house at 1728 College Avenue to Jim and Patricia Herron were outlined for Council information by Director of Finance Bird.

**RESOLUTION NO. 58-113**

**A RESOLUTION APPROVING LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND JIM AND PATRICIA HERRON FOR RENTAL OF HOUSE AT 1728 COLLEGE AVENUE**

Introduced by Merrill                      Seconded by Hammond  
Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None                      Absent: Arata and Anderson

**HOLD OVER RESOLUTION OF INTENTION TO VACATE AND ABANDON A PORTION OF GROVE AVENUE 2-20**

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The Council decided that before a date and time was set for a public hearing on the vacation and abandonment of a portion of Grove Avenue, as recommended by the Planning Commission, additional time would be needed for the members to inspect the area and to study the proposal.

**MOTION**

That the matter be held over and a staff report be submitted to the Council members.

Moved by Merrill                      Seconded by Hammond                      Unanimously carried

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It was suggested that in all future cases that a full report be submitted to the members before the matter was placed on the agenda, and not after the adoption of the initial resolution of intention as has been done in the past.

RESOLUTION DESIGNATING ONE-WAY ALLEY IN BACK OF POLICE STATION 2-55

This matter was held over until the effective date of the new traffic ordinance, April 24, 1958.

REPORT PAYMENT OF \$6,250 TO WESTERN UNION TELEGRAPH CO. 2-60

The City Manager reported that pursuant to the city's agreement with the Western Union Telegraph Co., final payment of \$6,250 had been made since the company moved out of the old Hotel Modesto building into to new quarters.

APPROVE AGREEMENT WITH STATE FOR TEMPORARY TRANSFER OF FIRE TRUCK 2-67

RESOLUTION NO. 58-114

A RESOLUTION APPROVING RENEWAL OF AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STATE OF CALIFORNIA, OFFICE OF CIVIL DEFENSE, FOR THE TEMPORARY TRANSFER OF VEHICULAR EQUIPMENT

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Hammond, Merrill, Robinson and Mayor Marks  
Noes: None      Absent: Anderson and Arata

DISCUSSION ON ESTABLISHMENT OF TRAFFIC SIGNAL ON P STREET AT NINTH STREET (99 HIGHWAY) 2-60

Dr. R. A. Cilker, owner of property on both sides of P Street (one-half block long), appeared in protest to the proposed installation of traffic signals on P Street at Ninth Street. He asked if some other arrangements could be made for the routing of traffic.

The City Manager reviewed the various proposals considered by the state and city for the routing of the traffic at this location, which had resulted in the plan now under study, for the establishment of traffic signals at Kansas, Tully and P Streets. He pointed out that the actual right of way on P Street was 80 feet and if curbs and gutters were installed by the property owner, the actual width would be 50 feet, with 15 feet on each side for sidewalks.

Director of Parking and Traffic Douglas Carmody displayed a copy of the preliminary signal drawing for the Needham Avenue intersection, prepared by the State Division of Highways, which provided for the installation of interconnecting traffic signals at Tully Avenue, Kansas Avenue and P Street.

He stated that he concurred with the opinion of the state that the traffic signals should be installed at P Street instead of Needham because, 1) better traffic signal progression, 2) greater distance is needed between Kansas Avenue and P Street because of the heavy left turn movement so that cars will not back across adjacent intersections, 3) the area of conflict would be greater if the signals were installed on Needham.

The City Manager stated that the city planned to pave P Street but not to install curbs and gutters, which was a responsibility of property owners. He pointed out that the city was proposing a change in the plan to the state which would permit cars to turn right onto Needham to get to the stores located on this street.

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Paul Philbin pointed out that this plan was only a temporary measure until a new plan could be completed for connecting Needham to Kansas and would work a severe hardship on the P Street merchants. He contended that some of the traffic problems were created by the present 10th and Needham signals which caused cars to back up on the 99 Highway. He suggested that a more satisfactory solution would be an exchange of property between the city and Dr. Gilker since the property on both sides of P Street was owned by Dr. Gilker. The city could arrange to close this street and deed a portion to Dr. Gilker in exchange for all of his property in Block 147. He pointed out that there might be some building code problems involved in moving the restaurant building since it had been constructed prior to the present building regulations.

Mayor Marks suggested that these problems might be worked out at staff level and asked Dr. Gilker and Mr. Philbin to meet with the staff.

John Feltes, operating a real estate office on P Street and Mr. Hansen, operating the Quikserv Market 1122 Needham, opposed the installation of traffic signals on P Street but expressed approval of Mr. Philbin's suggestion for exchange of property.

#### MOTION

That the possible exchange of property be referred to the staff for investigation and report.

Moved by Merrill Seconded by Robinson Unanimously carried

#### REQUEST FILED BY LOCAL JEWELERS FOR ADOPTION OF LEGISLATION REGULATING CLOSE-OUT SALES 4-67

In line with the established policy of the Council, Mayor Marks stepped down from his chair and relinquished it to Acting Mayor Hammond in order for the Council to consider a petition filed by the local jewelers.

The petition signed by nine local firms was read, asking that the city adopt legislation regulating close-out sales, similar to other California cities.

William Sturgill and Daryl Schack spoke for the Jewelers. They pointed out that one of the local jewelers had made arrangements with an outside firm specializing in closing-out sales and proposed this sale, supplementing existing inventory with new inventory to be brought into his store. They contended that these types of sales had a detrimental effect upon local concerns, were misleading and unfair to local potential customers.

The City Attorney stated that although the city had adopted legislation regulating "suction and action" sales, no regulations had been adopted regulating "close-out" sales. He reported on some of the ordinances which had been adopted by other cities and suggested that any legislation adopted regulate all types of close-out sales, not jewelers only.

#### MOTION

That the City Attorney be directed to prepare an ordinance for Council consideration regulating all types of "close-out" sales.

Moved by Robinson Seconded by Adams Unanimously carried

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GRANT REQUEST OF NORTHRUP-KING COMPANY FOR LOADING ZONE IN FRONT OF WAREHOUSE AT TENTH AND C STREETS 5-75

Mr. Hansen, representing Northrup-King & Co., wholesale seed dealers, 10th and C Streets, requested permission to present a matter for Council consideration which had not been placed on the agenda. Unanimous consent was granted by the Council.

Mr. Hansen reported that his company planned to put in an air lift system which would allow farmers to bring seed in bulk trucks, park parallel along the side of their warehouse and unload. He asked that the area along the side of the warehouse be set up as a loading and unloading zone. None of the overhead evacuating equipment would extend over the public right of way, he stated, but unloading trucks would project approximately four to five feet into the part of the street used for public parking. He requested that the area along the dock, for the length of three cars, be set aside as a reserved loading and unloading zone, for approximately 3 months, July, August and September.

Mr. Carmody pointed out that the trucks would be occupying any future sidewalk area and the construction, if approved by the Council, would prohibit the installation during the lifetime of the proposed structure. He pointed out that if the construction was approved by the Council that the request for a loading zone could be established administratively.

The Council considered that since the area was industrial the request should be approved to encourage industry to establish in the city.

The Director of Public Works answered a question raised by Councilman Adams that there would be no construction within the street area and must comply with all applicable codes.

**MOTION**

That the matter be approved in principle.

Moved by Robinson      Seconded by Merrill      Unanimously carried

Planning Director Smeath reported that the Planning staff considered that C Street should be closed at this point. A further investigation was being made and report would be submitted to the City Manager for further consideration.

FURTHER CONSIDERATION OF CITY HALL FINANCING 6-15

The City Manager listed items to be cleared by the Council relating to the city hall,

- 1- The delay in the garage construction---a special report was distributed to the Council. It is recommended that the wrecking of the MID building be included in the city hall contract as two contracts would increase costs.

**MOTION**

That the staff include the demolition of the MID building in the basic contract for the city hall

Moved by Adams      Seconded by Robinson      Unanimously carried

- 2- Amount of bonds to be issued. It is recommended that the full amount be issued. Term of the bonds is to be decided by the Council.

The City Manager noted a typographical error in his

report to the Council of April 15 --"City Hall Financing Report", page 2 total was not shown and the difference was indicated as the total. Corrected reports were distributed.

#### MOTION

That the full amount of the city hall bonds be issued.

Moved by Hammond      Seconded by Merrill      Unanimously carried

**Term of bond:** Councilman Merrill recommended delay until the Council had an opportunity to study the new reports and Councilman Arata could be present.

Director of Finance Bird stated that a two weeks delay in deciding on the term of the bond issue should not make a major difference.

The City Manager filed an additional report requested by Councilman Robinson which provided for a smaller payment on the principal at the beginning of the term, on the 15 year term and 20 year term. He suggested that an additional chart be prepared for Council information which would call for a little higher payment of principal range at the beginning, possibly starting at \$65,000. He pointed out that it would be possible to prepare a chart which would defer payment of principal for a year or so, as was done with the city's sewer bonds.

The Council approved the City Manager's suggestion that an additional chart be prepared, starting the principal payment at \$65,000 for the first year, on a 15 year basis.

The City Manager pointed out that the purchase of furnishings for the new city hall had been included in the bond issue and asked for Council guidance in purchasing needed furnishings at this time, which could be used in the new building. He reported that the staff was running into problems in preparing this year's budgets on furnishings and suggested that those furnishing which could properly be considered in the new building and put to use immediately, be purchased with bond funds. Each such purchase, he stated, would be approved by the Council. The Council agreed that the City Manager should proceed generally on this basis.

Mayor Marks made the following statement on the city property located on 15th Street, between H and I Streets, which had been purchased in 1940 for a city hall site:

"It is the established policy of this city that we keep the records straight as to functions which are financed by special funds set up to serve special limited purposes, such as the Library Fund, the Parking Fund, the Sewer Service Fund, and others."

"The 15th Street property was purchased by a forward-looking City Council as a site for the future city hall, from general city funds. If it is to be used for any limited special fund purposes, then its transfer should be made on the basis of current market value. On May 23, 1956, the Council adopted by motion the following policy statement:"

"That for the purpose of future discussion and for clarity in comparison with the LaLoma site that the Council proceed on the basis, as a person would in any business, of evaluating the one-half block owned by the city on 15th Street according to its present market value as established by current, fair appraisal."

"The city hall decision was made on this basis, and it is fair and right that we continue on this basis."

The City Manager's recommendation was that the lot now being used for parking be retained at this time and its future use be determined on whatever basis the Council decides.

Mayor Marks stated "if it is necessary for parking we should recognize that ultimately the parking fund ought to buy it".

APPROVE PROPOSAL FOR OBTAINING BLOCK STATISTICS DURING THE 1960 CENSUS  
7-15

Pursuant to the Council request, Director of Planning Smeath filed an additional report on proposal for obtaining block statistics during the 1960 federal census.

He reported that if the Council approved the proposal a contract must be entered into with the Bureau of Census by June 1, 1958. Payment for this service must be made by January 1, 1960. The cost would be \$6.50 per block, which amounts to approximately \$1,000 for 10,000 people. He pointed out that the information obtained would be very important to the city.

MOTION

That the city proceed to negotiate a contract with the Bureau of Census to obtain block statistics during the 1960 census

Moved by Mayor Marks Seconded by Adams  
Mayor Marks declared that the motion carried

Councilman Merrill stated he had voted "no" because he did not like the principle and did not believe it was necessary.

REPORT ON ALLOCATION FROM FEDERAL GOVERNMENT FOR URBAN RENEWAL PROJECT  
7-62

The City Manager reported receipt of notification from the State that the city's application for federal funds would be forthcoming.

FURTHER CONSIDERATION OF BUSINESS LICENSE ORDINANCE REVISION 7-67

The City Attorney distributed copies of the revised draft of the business license ordinance to the Council members. He suggested that the Council hold a public meeting for consideration of the ordinance.

MOTION

That the City Clerk be directed to make arrangements for a special meeting to consider the business license ordinance on Tuesday, May 6, at 4:00 P.M.

Moved by Merrill Seconded by Hammond Unanimously carried

The City Manager stated that the question of branch establishments had been resolved in the draft of the ordinance but a report would be sent to the Council members on the matter.

REQUEST OF TRI-Y-SIGMA PHI FOR USE OF CITY SIDEWALKS TO HOLD PENNY  
MARCH 7-92

Marleen Kissinger, representing the Tri-Y-Sigma Phi, from Downey High School, asked for permission to use the city sidewalk area in front of the J. C. Penney Co. store on Saturday, May 3, from 10:00 A.M. to 3:00 P.M., for a penny march to collect funds for the YMCA World Service.

Miss Kissinger reported that a "sticky type" of tape would be placed on the sidewalk to collect the funds.

The City Manager reported that Mr. Carmody had contacted  
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Mr. Penney and he had offered no objections to the solicitation but wanted to be certain that his company would not be held liable for any accidents which might occur. This assurance, the City Manager stated, could not be given by the city and would be an arrangement to be made between the company and the Club. He recommended that the city not incur any of the company's liability but assume its own liability only.

#### MOTION

That permit be granted to the Tri-Y-Sigma Phi Club to conduct a penny march on the sidewalk area in front of the J. C. Penney Co. store on 11th and J Streets, May 3 between 10:00 A.M. and 3:00 P.M., providing permittee confers with the Director of Parking and Traffic, who is hereby authorized to make arrangements for the location and size of the tape to be used for the collection of coins so that it will not constitute a public hazard for persons using the sidewalk area.

Moved by Merrill      Seconded by Robinson      Unanimously carried

#### SET DATE FOR PUBLIC HEARING ON PROPOSED ANNEXATION OF THE HILLVIEW ACRES 8-16

#### RESOLUTION NO. 58-116

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE HILLVIEW ACRES ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Robinson      Seconded by Adams  
 Ayes: Adams, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None      Absent: Anderson, Arata

The time set for the hearing was 4:30 P.M., June 4, at the Council Chamber.

#### REPORT ON USE OF PROPERTY PURCHASE FROM WILLARD McBRIDE 8-20

The City Manager reported that Mr. McBride had continued to use this property for his cattle although permit had expired as of January 1, 1958. There was no formal arrangements for the collection of rent by the city, he reported, but it was generally understood that some payment of rent would be made. Mr. McBride now refuses to pay any rent. He has been asked to remove his cattle because of the cost of maintaining fences.

Director of Parks and Recreation Lowrey reported on a proposed plan for the screening growth along Robertson Road and a short section along the east side of the property. He stated that there would be complete screening of the residence area along this road.

#### MOTION

That the plan outlined by Mr. Lowrey be approved and he be authorized to proceed with the planting of this area on the basis outlined.

Moved by Robinson      Seconded by Mayor Marks  
 Unanimously carried

Mr. Ray reported that under the terms of the purchase of this property, one small triangular piece was used for sanitary land fill purposes by the city prior to January 1, 1958. This will be filled in by the end of this week and it is proposed to operate in the section of the entire property south of the drainage ditch which is approximately through the center of the property. The first operation, he reported, will be to fill the drainage ditch.

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APPROVAL OF PAYMENT TO CHARLES H. LEE FOR FOUNDATION EXPLORATION WORK  
ON CITY HALL PROPERTY 8-52

MOTION

That payment of \$2,661.26 to Charles H. Lee for foundation exploration work on the new city hall be approved.

Moved by Robinson    Seconded by Adams    Unanimously carried

REPORT FROM PLANNING COMMISSION 8-50

Mr. Smeath reported that the Planning staff had prepared an up-to-date land use map for the Council Chamber.

Councilman Merrill left the Council meeting at 5:55-P.M.

REPORT ON SALES TAX MEETING WITH COUNTY BOARD OF SUPERVISORS 8-62

A letter from E. W. Hane, Chief Administrative Officer of Stanislaus County, addressed to Mayor Marks, was read, advising that the Board of Supervisors wished to reopen negotiations on the allocation of sales tax funds and urging that the City of Modesto send a representative to the next city-county meeting, April 28 to discuss the sales tax problems.

Councilman Hammond reported on the meeting of April 21 with the Board on sales tax matters. The outcome of the 2½ hour discussion was that "we are now going to sit down and meet with the legislative bodies of the county and settle the matter".

Mayor Marks requested that the Council clarify its position before the city-county meeting on April 28, so that all county legislative bodies will know this position. He read a draft of a statement for Council approval relating to the city's position, as follows:

"The Council has received the request of the Board of Supervisors to consider renegotiation of the allocation of the sales tax between the County and the cities, and we wish to express our willingness to review the situation with you."

"We believe that it would be desirable to agree in advance on the basis upon which negotiations are to proceed, and that the following are essential requirements for proper consideration of local fiscal relationships:

1. Demonstrated errors in the report of Pacific Planning and Research should be corrected before this report is used as a basis of negotiation.
2. Amounts allocated to the County by the city or to the cities by the County should tend to correct existing tax inequities between city and county.
3. Appropriate consideration should be given to the fact that in our irrigation districts the cost of water is subsidized by users of electricity.
4. Consideration should be given to more equitable distribution of road and bridge funds between the cities and the county.
5. Consideration should be given to the organization of special service districts, to provide to the fringe areas the city-type services which are now subsidized by both the farm and city taxpayers."

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"We are deeply concerned about the program of division and distrust which is being built up and used as a weapon on this issue. We believe such tactics are especially regrettable in view of the fact that the interest of rural residents and of city people are identical in many factors which are, in our judgment, even more compelling than the ones being argued about. Rural residents are concerned, and rightly so, over how the county government is financed---and as substantial county taxpayers so are the residents of cities. Rural residents are also concerned, and so are city people, over county provision, at increasing cost, of municipal-type services to urban unincorporated areas. Both rural and city residents are being taxed to provide, for highly developed urban areas, the services which city dwellers buy and pay for for themselves and which ranchers do not want or need. Some solution must be found to this fundamental factor in every rising county costs if either rural or city residents are to be equitably taxed. The only ones who profit from existing circumstances are those who live immediately outside cities and who get urban services at the expense of both farm and city taxpayers."

"We believe that in the public interest the question of sales tax allocation should be decided one way or another as promptly as possible. We request that the County either indicate its willingness to proceed with negotiations on the basis outlined above or suggest an alternate basis which would be satisfactory to the County and <sup>to the</sup> cities of the County. If the Board of Supervisors is willing on the basis set forth above, to reevaluate---either up or down--- the allocation of sales tax between the County and the cities, then the Modesto City Council will spend whatever time and effort is necessary to clear the matter equitably."

"If no satisfactory conclusion can be reached within a reasonable period by those responsible to their respective electorates, the Board of Supervisors has the authority to:

1. Permit the uniform sales tax to continue in effect as it is;
2. Repeal the tax."

"Should the Board determine to proceed on the basis of alternate No. 2, the City Council of Modesto indicates its intention of going back to the basis of the city sales tax which was in effect at the time the County uniform sales tax ordinance was enacted."

"We urge the Board to make a decision at the earliest possible moment so that the ill-will and bitterness unfortunately generated may be dispelled."

"The City Council again indicates its willingness to renegotiate on the basis proposed above, or the Board of Supervisors is free to make the decision on the basis of its own judgment of the best interests of all the people of the county."

Councilman Hammond stated that now since negotiations were being conducted with legislative bodies instead of groups and individuals assuming the prerogatives of a legislative body in conducting negotiations, a climate will be provided in which things can be done. Misinformation and false statistics can now be corrected and put in their proper light.

Councilman Adams raised a question---whether the problem of the support of the urban areas and the solution to this problem, should be brought into the discussion at this time.

Councilman Hammond pointed out that this would offer an opportunity to start doing something about this problem.

The City Manager stated that the inclusion of this matter was suggested on the basis that there has been considerable ill-will and mistrust generated because there has been many statements, some of which were unjustified, about a single issue on which the difference in interest between the farm group and city group have been magnified. It was suggested as an area which should be considered where the farm and city groups are both subsidizing city type services to a fringe area around the city, such as police protection, street repairs, etc. This has been a continuing problem but there is now a solution available. Through the cooperation of the State Supervisors Association and City League and other groups, legislation has been adopted which will permit the counties to establish urban service districts around the city, to be paid by the people in the district. This would eliminate the farmers and cities from paying for the city type services.

Mayor Marks considered that all of these matters should be negotiated with the responsible, elected officials of governmental bodies, ---willing to look at the facts, responsible to all the citizens rather than with persons in small meetings who are responsible only to themselves.

#### MOTION

That the statement be presented to the County Board of Supervisors by the City Clerk as the official stand of the City Council.

Moved by Hammond      Seconded by Robinson      Unanimously carried

#### REPORT ON PROPOSED PARK DEVELOPMENT PLANS FOR KEWIN PROPERTY 9-90

A sketch of the proposed plan for the development of Kewin property on LaLoma Avenue as a city park was presented by Director of Parks & Recreation Lowrey. He reported on the plantings proposed and the areas to be developed as playground areas. He stated that there was so much scenic beauty already on the property that as little change as possible would be made. Proposed traffic protection for the children using the park was explained by Mr. Lowrey.

The City Manager reported that the Public Works Department was preparing plans for the stairway leading into the park, which would be presented at a later meeting.

Mr. Lowrey stated that the park would be ready for use this fall.

#### CITY CLERK AUTHORIZED ATTEND CITY CLERKS' INSTITUTE IN MONTEREY 10-07

#### MOTION

That the City Clerk be authorized to attend the City Clerks' Institute being held in Monterey on May 1 and 2, 1958

Moved by Hammond      Seconded by Adams      Unanimously carried  
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LEAGUE MEETING IN MERCED. APRIL 24. 10-10

The members were reminded of the meeting.

APPOINT WILMAR JENSEN ACTING CITY ATTORNEY 10-10

With the unanimous consent of the Council, the City Attorney was permitted to raise a matter not on the agenda---appointment of an Acting City Attorney during his absence. He recommended that Wilmar Jensen be named.

## RESOLUTION NO. 58-115

A RESOLUTION APPOINTING WILMAR JENSEN AS ACTING CITY ATTORNEY DURING THE ABSENCE OF THE CITY ATTORNEY

Introduced by Mayor Marks      Seconded by Adams  
 Ayes: Adams, Hammond, Robinson, Mayor Marks  
 Noes: None                      Absent: Anderson, Arata, Merrill

ADJOURNMENT

## MOTION

That the Council meeting now in session be adjourned.

Moved by Hammond      Seconded by Adams      Unanimously carried

The meeting was adjourned at 6:20 P.M.

ATTEST

  
 City Clerk

May 6, 1958

The Council of the City of Modesto met in special session this date at 4:00 P.M., as provided by Section 2-1102 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Robinson, Mayor Marks

Absent: Councilmen: Adams, Anderson, Merrill

Councilman Adams arrived at 4:14 P.M.

Mayor Marks declared that the purpose of this meeting was for further consideration of the proposed business license ordinance.

City Manager Miller was excused by the Council.

Mayor Marks asked the audience if there were any questions or comments in regard to this ordinance.

Mrs. Bernice Rader, representing the Music Teachers Association of California, asked if a future Council could charge a double tax on home occupations, and if the teachers should attempt to be classified as a home occupation.

City Attorney Allen Grimes stated that there was no possible way to guarantee that the present law would remain in effect. If it proved to be inequitable in operation, he stated, it would be changed.

Councilman Arata stated that if a hardship was created by this ordinance for any group, the Council would be willing to re-examine it and try to resolve any problems.

Harold Simidian, representing the Dry Cleaners and Laundry firms, asked if these firms could be included under Section 6-1.202 PROFESSIONS AND SERVICES.

Mr. Grimes stated that under the new ordinance, they would only be classified as "services".

Mr. Simidian recommended that the fee for his group be lowered to correspond with the "Brokers, Manufacturers, Processors, Public Utilities and Wholesalers", as the margin of profit between the types of businesses was no greater.

Councilman Hammond agreed that there were still some areas of inequity in relation to wholesalers but there were also some wholesalers who are in the business of processing. He pointed out that the drafting of the ordinance for ease of handling was of importance to the City and the people who handle the bookkeeping of the businesses. He stated that as a policy matter, the Council wished to avoid encumbering extra work by not differentiating between wholesalers, manufacturers, and processors, realizing that there would still be some inequities in that procedure.

Mr. Simidian asked if the branch offices of a business would have to pay a separate business license. City Attorney Grimes answered that under Sec. 6-1.109 only one business license would be required regardless of how many branch offices there might be.

The licensing of out of town trucks was brought up by Mr. Simidian. The City Attorney stated that Sec. 6-1.225 was a compromise and that other outside businesses come after this section. City Attorney Grimes pointed out that this section was based on figures provided by Mr. P. Arnold Anderson, and was designed to establish a fair basis in accordance with other adjacent cities.

**SECTION 6-1.207 OTHER OUTSIDE BUSINESS.** The City Attorney recommended that the annual license fee of \$25 provided in this section be increased to \$50 and a 2 mill rate be established instead of the proposed 1 mill rate. He based his recommendations on the fact that a person doing business in the city would also be paying real and personal property taxes. He stated that this difference in rate would compare to charges for outside water and sewer service.

Emmett Grandall, Valley Tractor Company, asked the Council if an exemption would be granted for farm merchandise sold and used exclusively outside the city.

The Council recognized Mr. Grandall's problem, but considered that any other procedure of taxation would involve changing the whole structure of the license ordinance. It was agreed that Mr. Grandall would meet with the City Attorney and the Director of Finance to try and reach a working agreement on the application of the tax and to discuss the constitutional principles that might apply in this type of business.

John Gorman, Manager of Bradbury Cleaners, asked for clarification of the changes in Sec. 6-1.109 **BRANCH ESTABLISHMENTS: SEPARATE TYPES OF BUSINESS.** The City Attorney stated that "other facilities" had been added.

Othel Robbins, representing Refrigerating and Air Conditioning businesses, asked if the \$50 business license and 2 mills would apply to those concerns located outside the city with most of their business conducted inside the city limits. The City Attorney stated that these businesses would come under Sec. 6-1.207 **OTHER OUTSIDE BUSINESSES** and that only that proportion of their gross receipts actually attributable to conducting business within the city would be taxable.

P. Arnold Anderson, representing the wholesalers and distributors, commended the Council on the proposed ordinance. He suggested a change of wording in Section 6-1.101 (9) which was approved by the Council.

Terry Daily, representing Mission Linen Supply, requested that the Council give some consideration to reclassifying the laundries from Sec. 6-1.202 **PROFESSIONS AND SERVICES** to a separate classification. He also suggested that some consideration be given to amending the definition of "wholesale" businesses so that it would apply to persons or businesses selling or soliciting the sale of services to be rendered to business establishments.

Mr. Bird stated that the Council had assumed that linen supply was the same class as laundry or dry cleaning and that with full knowledge of the nature of the business, a separate title would be included in Sec. 6-1.202 naming "linen service". He also suggested that several corrections be approved in various sections of the ordinance. City Attorney Grimes summarized the changes in the ordinance, which were approved by the Council.

MOTION

That the City Attorney be instructed to prepare the ordinance as outlined to be presented to the Council on May 7, 1958.

Moved by Adams      Seconded by Arata      Unanimously carried

ADJOURNMENT

MOTION

That the special called meeting of the City Council be adjourned.

Moved by Hammond      Seconded by Arata      Unanimously carried

The meeting was adjourned at 5:30 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M. as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Robinson, Mayor Marks

Absent: Councilmen: Anderson, Hammond

Councilman Hammond arrived at 4:15 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. James Bos gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of April 9 and 23, 1958, and the same being available for public inspection and there being no objections, the minutes were approved.

#### ACCEPT RESIGNATION OF GEORGE H. HANSEN FROM THE MODESTO CITY BOARD OF PLUMBING EXAMINERS 1-15

A letter was read from George H. Hansen, submitting his resignation from the Board of Plumbing Examiners, effective June 1, 1958.

Mayor Marks recommended that the resignation be accepted with regrets and that a letter of commendation be sent Mr. Hansen.

#### RESOLUTION NO. 58-117

#### A RESOLUTION ACCEPTING THE RESIGNATION OF GEORGE H. HANSEN FROM THE MODESTO CITY BOARD OF PLUMBING EXAMINERS

Introduced by Adams      Seconded by Arata

Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson, Hammond

#### DISCUSSION ON APPOINTMENTS TO BOARDS AND COMMISSIONS 1-20

The Council discussed the increasing difficulty in securing persons to serve on the various boards and commissions since they would be limited in doing business with the city.

The City Attorney pointed out that the City Charter, adopted by the citizens of the city, was more restrictive than the state law in regard to officer interests in city contracts.

The Council briefly discussed the possibility of amending the City Charter to make the qualifications for serving on boards and commissions less restrictive. It was generally agreed that this amendment should be considered with several other amendments which had previously been suggested and which would be presented for Council consideration to be placed on the ballot at an early election.

Mayor Marks suggested that the Board of Freeholders, who had drafted the City Charter, be invited to sit with the Council when these amendments are discussed.

The City Manager suggested that the staff make a study and report on the ordinances regulating such appointments so that the city could operate on some alternate basis pending a charter amendment.

The City Attorney pointed out that the ordinances could be amended to permit persons other than those in the trade to participate on the boards and suggested that this possible avenue be investigated by the staff.

#### MOTION

That the matter be referred to the staff for study and report to the Council on all the various boards and commissions.

Moved by Merrill      Seconded by Robinson      Unanimously carried

#### LETTER FROM STANISLAUS COUNTY HORSEMEN'S ASSOCIATION RE: HORSEMEN'S PARADE 1-55

A letter from the Stanislaus County Horsemen's Association was read inviting the Council members to ride in the Horsemen's Parade on May 17, 1958.

The Council members were requested to notify the City Clerk by Saturday, May 10, 1958, if they planned to participate.

#### REQUEST BY ELKS CLUB FOR USE OF BALL PARK FOR CHARITY CIRCUS 1-70

Dick Willey, representing the Elks Club, asked permission to use the ballpark for its second annual Charity Circus on May 17 and 18, 1958. He stated that permission had been granted by the Reds Baseball Club and that insurance had been filed with the City Clerk.

#### RESOLUTION NO. 58-118

A RESOLUTION GRANTING A PERMIT TO B.P.O.E. ELKS LODGE NO. 1282 TO HOLD RUDY BROTHERS MAGIC CIRCUS AT DEL WEBB FIELD ON MAY 17 AND 18, 1958

Introduced by Merrill      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

#### LETTER FROM JOHN ERRECA, LEAGUE OF CALIFORNIA CITIES RE: WATER PROBLEMS 1-85

The City Manager briefed the communication from John Erreca, Director, League of California Cities. The City Manager stated that the League was holding a meeting on the 7th of May and he would report on any subsequent action to be taken. The letter was ordered filed.

#### LETTER FROM COUNCIL RE: SALES AND USE TAX 1-90

Mayor Marks read a letter from the county requesting that the City appoint a member to attend a meeting of the Sales Tax Committee.

Mayor Marks requested that he be relieved of his assignment as a member of the City-County Committee and that Vice Mayor Hammond be appointed to replace him and be a delegate to the Sales Tax Committee.

## RESOLUTION NO. 58-119

**A RESOLUTION APPOINTING DON D. HAMMOND AS A MEMBER OF THE STANISLAUS CITY-COUNTY COMMITTEE**

Introduced by Merrill                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

**LETTER FROM FRANK ANDREWS RE: ELECTRICAL ORDINANCE 1-115**

A letter was read from Frank Andrews protesting to the recent ordinance amending the electrical code and salaries of the Mayor and Council members. The letter was ordered filed.

**LETTER FROM STANISLAUS COUNTY SOCIETY FOR CRIPPLED CHILDREN RE: HANDRAILS IN PUBLIC BUILDINGS 1-120**

Mayor Marks stated that it was against the Council's policy to accept letters and communications which were unsigned. This matter was held over until a signature could be secured.

**LETTER FROM CALIFORNIA ART LEAGUE RE: MOSAIC MURAL FOR CITY HALL 2-05**

Mrs. Gertrude Skupin, President of the California Art League, proposed that the Art League sponsor a mosaic mural for the south wall of the new city hall court area, under the following conditions:

- 1- That the Art League sponsor a competition, open to residents of Stanislaus County and league members in surrounding areas, for a design to be used in the construction of a mosaic mural for the south wall of the garden court of the proposed Modesto City Hall;
- 2- That the designs submitted would be screened by a special committee of Art League members to determine technical feasibility;
- 3- That two competent judges would select three designs, the winning design to be picked by Architect Pflueger;
- 4- That the funds for this plan would be raised by various service and cultural organizations of Modesto;
- 5- That the construction of the first stage of the mural would be done through volunteer labor.

Mayor Marks expressed his approval of the plan and stated that it was a wonderful example of private cooperation with a governmental agency. He asked if it would be acceptable to the League if the city's architect would also be a judge on the competency on the mechanics of the actual work.

Mrs. Skupin stated that the League would be willing to work with the Architect or a member of the Council throughout the entire operation.

**MOTION**

That the proposal of the California Art League be approved in principle and the staff and architect be authorized to work with the League as outlined above.

Moved by Robinson                      Seconded by Adams                      Unanimously carried

Mrs. Skupin raised the matter of the request of the Art League for a rent reduction for its Gallery. Mayor Marks answered informally that no decision had been reached at this time.

COMMUNICATION FROM THE AMERICAN PUBLIC UTILITIES ASSOCIATION RE: MEMBERSHIP 2-75

The City Manager briefed the letter and stated that at the present time the Director of Public Works was a member and recommended that the City take no action. The letter was ordered filed.

LETTER FROM CALIFORNIA MARINE PARKS AND HARBORS ASSOCIATION RE: MEMBERSHIP 2-80

City Manager Miller stated that the membership cost was \$50. He recommended that the City not join this organization at this time. The letter was ordered filed.

HEARING ON PROPOSED ANNEXATION OF PARADISE CENTER ADDITION 2-90

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for consideration of the proposed annexation of Paradise Center Addition.

The City Clerk filed a certification that the notice of the hearing had been published in the manner and for the time prescribed by law and that no written protest had been filed.

Mayor Marks asked if anyone wished to make any comments or file any protest. No comments were made or protests filed.

Director of Planning Smeath stated that a question had been raised on the boundary of the southern area. He requested that the hearing be recessed until this matter has been cleared by the Department of Public Works.

Mayor Marks declared the hearing recessed at 4:25 P.M. (see page 8)

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR 10 UNIT T HANGAR AT AIRPORT 2-100

RESOLUTION NO. 58-120

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE CONSTRUCTION OF ONE TEN UNIT "T" HANGAR AT CITY-COUNTY AIRPORT

Introduced by Merrill      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

The time set for opening the bids was May 19 at 3:00 P.M.

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR CONCRETE STAIRWAY AT THOUSAND OAKS PARK 2-110

RESOLUTION NO. 58-121

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF A CONCRETE STAIRWAY AT THOUSAND OAKS PARK (Buena Vista & La Loma Streets)

Introduced by Arata      Seconded by Robinson

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Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

The time set for opening bids was May 19 at 2:15 P.M.

AUTHORIZE INSTALLATION OF WATER LINES ON GRANGER AVENUE 2-112

The City Manager reported that no bids were received on the installation of water lines in portions of Granger Avenue, which had been called for May 5, 1958, at 2:00 P.M. He recommended that the installation be made by city forces. The engineer's estimate for the work was \$2,973,

RESOLUTION NO. 58-122

A RESOLUTION AUTHORIZING THE INSTALLATION OF WATER LINES IN PORTIONS OF GRANGER AVENUE BY CITY FORCES AS PROVIDED BY SECTION 1307 OF THE CHARTER OF THE CITY OF MODESTO

Introduced by Merrill      Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR FURNISHING PIPE, VALVES, FITTINGS AND SERVICE CLAMPS - DRYDEN GOLF COURSE 2-120

RESOLUTION NO. 58-123

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE FURNISHING OF PIPE, VALVES, FITTINGS AND SERVICE CLAMPS

Introduced by Arata      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

The time set for opening of bids was May 26 at 2:00 P.M.

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR INSTALLATION OF 8" WATER MAIN IN BLOCK 6737-ASHFORD TRACT 3-20

RESOLUTION NO. 58-124

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF 8" WATER MAIN IN BLOCK 6737-ASHFORD TRACT, AND TULLY ROAD, FROM BRIGGSMORE TO RONALD AVENUE

Introduced by Adams      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

The time set for opening of bids was May 19 at 2:00 P.M.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING PIPE AND VALVES FOR CITY USE 3-25

RESOLUTION NO. 58-125

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING  
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## FOR BIDS FOR FURNISHING PIPE AND VALVES

Introduced by Robinson      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

The time set for opening of bids was May 26 at 2:00 P.M.

FURTHER CONSIDERATION OF BUSINESS LICENSE ORDINANCE 3-35

The City Attorney reported that the ordinance had been amended in accordance with Council instructions.

## ORDINANCE NO. 238-C.S. entitled

"AN ORDINANCE AMENDING CHAPTER 1 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO THE LICENSING OF CERTAIN BUSINESSES, PROFESSIONS, TRADES AND OCCUPATIONS IN THE CITY OF MODESTO FOR THE PURPOSE OF REVENUE AND ADDING CHAPTER 8 AND REPEALING CHAPTER 3 OF TITLE VI OF SAID CODE"

was introduced and ordered printed and published as required by the Charter.

Introduced by Hammond      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

CONSIDER ORDINANCE APPROPRIATING FUNDS FOR HANGAR 3-55

## ORDINANCE NO. 239-C.S. entitled

"AN ORDINANCE APPROPRIATING ADDITIONAL REVENUE AND RECEIVABLES FROM OTHER FUNDS TO THE GENERAL FUND FOR CONSTRUCTION OF A 10 UNIT T HANGAR AT THE MODESTO CITY-COUNTY AIRPORT"

was adopted and ordered printed and published as required by the Charter.

Introduced by Arata      Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

CONSIDER ORDINANCE REGULATING GOING-OUT-OF BUSINESS SALES 3-70

Mayor Marks relinquished his chair to Vice Mayor Hammond because of his personal interest in the matter.

Alfred Hamaway, representing the Modesto Merchant's Association, stated that the Association approved and endorsed the proposed ordinance and asked if "auction sales" could be included in the ordinance.

The City Attorney reported that the only control the City has on "auction sales" was under the ordinance regulating jewelry. He stated that no purpose could be accomplished by adding the words to this ordinance and suggested that the staff be authorized to draft a new ordinance regulating "auction sales" under a general basis.

Mayor Pro Tempore Hammond recommended that the Merchant's Association confer with the City Attorney.

Helen Wilson Shoemake, Shoemake's Jewelry Store, stated that the

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Jewelers Association wished to express its approval of the proposed ordinance.

ORDINANCE NO. 240-C.S. entitled

"AN ORDINANCE AMENDING CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE BY ADDING ARTICLE 13 THERETO RELATING TO THE REGULATION OF GOING OUT OF BUSINESS SALES, REMOVAL OF BUSINESS SALES, AND FIRE AND OTHER ALTERED GOODS SALES"

was adopted and ordered printed and published as required by the Charter.

Introduced by Robinson Seconded by Merrill

Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond

Noes: None

Absent: Anderson, Mayor Marks

CONSIDER ORDINANCE REGULATING MOTOR BUSES 4-23

The City Attorney stated that the purpose of this ordinance was to remove obsolete provisions of the motor bus regulations and to increase the minimum personal property insurance to \$5000 to be consistent with state law.

ORDINANCE NO. 241-C.S. entitled

"AN ORDINANCE AMENDING SECTION 6-7.207 OF ARTICLE 2 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO MOTOR BUSES, AND REPEALING SECTION 6-7.209 THEREOF"

was introduced and ordered printed and published as required by the Charter.

Moved by Robinscr Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks

Noes: None

Absent: Anderson

PETITION OF GROVE AVENUE PROPERTY OWNERS OBJECTING RE: PERMIT GRANTED MRS. MADELINE HIATT 4-30

Director of Planning Smeath gave a brief resume of the action taken by the Board of Zoning Adjustment, and the petition filed by the property owners protesting the legality of the procedure in granting the permit to Mrs. Madeline Hiatt for use of property for parking and commerical purposes. He recommended that the Council consider the hearing on the closing of Grove Street and the consideration of any appeal of the Board of Zoning Adjustment action at the same meeting.

The City Attorney stated that the action taken by the Board of Zoning Adjustment was legal and correct. He considered that property owners should file a new petition contesting the merits, since this was their primary interest.

Mr. C. F. Heckman, representing Grove Avenue property owners, pointed out that the property owners intended to appeal the conditional permit granted Mrs. Hiatt and were also going to oppose the closing of Grove Avenue. He stated that the property owners were willing to have the matter referred back to the Board of Zoning Adjustment for a new hearing as long as the closing of Grove Avenue would be held in abeyance until after the hearing.

RESOLUTION NO. 58-126

A RESOLUTION REFERRING THE APPEAL OF GROVE AVENUE PROPERTY OWNERS OPPOSING

THE PERMIT GRANTED MRS. MADELINE HIATT FOR USE OF PROPERTY FOR PARKING AND COMMERCIAL PURPOSES BACK TO THE BOARD OF ZONING ADJUSTMENT FOR A FULL NEW HEARING

Introduced by Arata                      Seconded by Merrill

Ayes: Adams, Arata, Hammond, Merrill, Mayor Marks  
Noes: None  
Absent: Anderson

RESOLUTION OF INTENTION TO VACATE AND ABANDON A PORTION OF GROVE AVENUE 5-40

This resolution was held over for consideration at a later date.

AUTHORIZE CHANGE IN RATES AND HOURS - 13th & 14th STREET PARKING LOTS 5-45

RESOLUTION NO. 58-127

A RESOLUTION ESTABLISHING AND FIXING PARKING RATES AND CHARGES FOR USE OF MUNICIPAL OFF-STREET PARKING FACILITIES IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 58-79

Introduced by Merrill                      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

The City Manager stated that in cases like this new signs had to be installed prior to final action by the Council, and that unless there was some objection or other direction from the Council, the staff would take actions indicated to minimize confusion caused the public. There was no objection.

PRESENTATION OF PRELIMINARY 1958-59 CITY BUDGET 5-55

The City Manager presented copies of the proposed budget for 1958-59. He stated that it was presented on a basis of no tax rate increase. He commended the staff, with special commendation to Lenna Abbey, for keeping the budget on schedule.

DESIGNATE ONE-WAY ALLEY ON 10th and 11th STREETS AND F & G STREETS 5-80

RESOLUTION NO. 58-128

A RESOLUTION DESIGNATING A ONE-WAY ALLEY BETWEEN TENTH AND ELEVENTH STREETS AND F AND G STREETS IN THE CITY OF MODESTO

Introduced by Merrill                      Seconded by Arata

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

RECESSED HEARING ON PROPOSED ANNEXATION OF PARADISE CENTER ADDITION 5-85

Mayor Marks declared the recessed hearing on the proposed annexation of Paradise Center Addition re-opened at 5:20 P.M.

Director of Public Works/<sup>Ray</sup> stated that the question of the boundaries had been cleared. Mayor Marks declared the hearing closed.

ORDINANCE NO. 237-C.3, entitled

"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS PARADISE CENTER ADDITION 5-7-58 Page 8

TO THE CITY OF MODESTO

was introduced and ordered printed and published as required by the Charter.

Moved by Arata            Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

APPROVE AGREEMENT WITH COUNTY RE: ASSESSMENTS 5-90

RESOLUTION NO. 58-129

A RESOLUTION APPROVING SUPPLEMENTAL AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR THE COLLECTION BY THE COUNTY OF CASH ASSESSMENTS OF LESS THAN \$50 LEVIED BY THE CITY FOR MUNICIPAL IMPROVEMENTS

Introduced by Merrill            Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

The City Attorney stated that under the state law, the cash assessments had been raised from \$25 to \$50 under improvement district proceedings.

AUTHORIZE TRANSFER FROM PARKING RESERVE RE: LAND ACQUISITION 5-95

RESOLUTION NO. 58-130

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$136 FROM PARKING RESERVE TO PARKING 501-57 LAND ACQUISITION TO COVER COST OF LAND AND COUNTY AND M.I.D. TAXES

Introduced by Merrill            Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

REQUEST OF MODESTO GARBAGE COMPANY FOR VARIANCE TO IMPROVE DRIVEWAY 5-100

A request was filed by the Modesto Garbage Company for a variance from the Code to blacktop an existing driveway on Morton Blvd. between 11th and 12th.

The City Manager recommended that this request be approved on a temporary basis, until the streets are graded and curbs and gutters installed, as outlined by the Director of Public Works.

RESOLUTION NO. 58-131

A RESOLUTION GRANTING THE REQUEST OF THE MODESTO GARBAGE COMPANY FOR VARIANCE FROM THE MUNICIPAL CODE REGULATIONS TO IMPROVE A DRIVEWAY LOCATED ON THE WEST SIDE OF MORTON BOULEVARD, BETWEEN 11TH AND 12TH STREETS IN THE CITY OF MODESTO

Introduced by Hammond            Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None  
Absent: Anderson

CONSIDER TRAFFIC ORDINANCE RE: CAR KEYS 5-115

With the unanimous consent of the Council, Mayor Marks raised a matter not on the agenda, the traffic ordinance recently adopted by the Council. He asked if the regulation prohibiting the leaving of keys in the ignition of cars would interfere with insurance policies, and if a car owner would be able to present a case against a car thief if the keys had been left in the stolen vehicle. He asked for a report on these two questions from the staff.

## MOTION

That the staff be authorized to study and report on the questions raised relating to car keys.

Moved by Merrill      Seconded by Arata      Motion carried

Councilman Hammond stated that the reason he voted "no" was that he felt that the study was unnecessary.

REPORT BY PLANNING COMMISSION 6-40

The City Manager gave a brief report on the annexation meeting of East McHenry area held at Downey High School on May 5, 1958. He stated that the Planning Commission made it clear that the City does not annex an inhabited area, that the matter was in the property owners hands, and that the City would be glad to offer any assistance possible.

REPORT ON CITY HALL FINANCING 6-50

The City Manager distributed copies of a report on bond financing to the Council and requested that the Council make a recommendation on which bond schedule would be most suitable. He suggested that the Council adopt the 15 year schedule.

Councilman Hammond considered that since the City would be paying \$108,000 for interest on the last 5 years of the 20 year schedule, the bonds should be retired in the shortest time possible.

## MOTION

That the 15 year bond schedule be approved.

Moved by Hammond      Seconded by Robinson      Unanimously carried

REPORT ON CITY ATTORNEY'S SPRING CONFERENCE IN PALO ALTO 7-35

The City Attorney gave a brief summary of a few of the ordinances which had been discussed at the conference. He was requested to send copies of the Conference Agenda to the Council members.

The City Attorney also reminded the Council that he would be on two weeks temporary military leave starting May 12, 1958, and that the Acting City Attorney would serve in his absence.

PRESENT FINANCIAL STATEMENT FOR APRIL 7-50

The financial statement for April, 1958, was filed by the City Manager.

CONSIDERATION OF WASTE DISPOSAL PROBLEMS 7-55

The City Manager requested permission to arrange an agreement with the company to bury grass clippings and refuse to the Garbage Dump near the Sewer Plant.

MOTION

That the staff, the Council committee and the Modesto Garbage Company work out an agreement to dump and bury grass clippings and refuse at the sanitary land fill area and report to the Council.

Moved by Merrill                      Seconded by Adams                      Unanimously carried

ADJOURNMENT

MOTION

That the Council meeting of May 7, 1958 be adjourned.

Moved by Hammond                      Seconded by Merrill                      Unanimously carried

The Council meeting was adjourned at 5:45 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Sec. 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Merrill, Robinson, Mayor Marks

Absent: Councilmen: Anderson, Arata, Hammond

Councilmen Hammond and Arata arrived at 7:33 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Arthur Brohm, pastor of the Grace Lutheran Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of April 16 and adjourned meeting of April 23, and the same being available for public inspection and there being no objections, the minutes were approved.

#### INVITATION FROM STANISLAUS COUNTY SOCIETY FOR CRIPPLED CHILDREN AND ADULTS 1-30

The invitation received from the Stanislaus County Society for Crippled Children and Adults for the Council members to attend the 13th annual dinner meeting, Monday, May 26, 1958, at the Fable Room was referred to the City Clerk to check out with the individual members.

#### LETTER FROM LOUIS J. KROEGER & ASSOCIATES RE: PROFESSIONAL SERVICES 1-40

A letter from Louis J. Kroeger and Associates offering its professional services to the city was briefed and referred to the City Manager for study. If any action is indicated the City Manager will report to the Council.

#### LETTERS NOT ON AGENDA 1-43

With the unanimous consent of the Council, Mayor Marks read three letters which had arrived too late to be placed on the agenda.

#### Letter from Stanislaus County Society for Crippled Children and Adults, Inc.

The Society recommended that the City of Modesto and Stanislaus County consider the installation of a non-skid ramp and handrail in and out of at least one entrance to each public building in this area and particularly in all new public structures.

The letter was referred to the City Manager to check out the plans for the new city hall to determine that street level access would be available. Mr. Miller stated that if there should be any problem it would be reported to the Council otherwise the letter would be answered and filed.

#### Letter from Central California Art League 1-70 of letter

A letter with an attached copy/ from Architects Mitchell Van Bourg & Associates, relating to plans for the construction of a mosaic mural for a wall of the new city hall were read and ordered filed.

Letter from Save Modesto Association 1-90

A letter from Frank Andrews relating to the demolition of the Hotel Modesto building was read and ordered filed.

APPEAL BY CHARLES D. WARNER RE: CONSTRUCTION OF BUILDING REFERRED BACK TO BOARD OF ZONING ADJUSTMENT 1-113

An appeal filed by Charles D. and Bernice G. Warner on the conditions of the decision of the Board of Zoning Adjustment of April 24, 1958 for the relocation of an existing non-conforming use into a new building on the northwest corner of Santa Ana Avenue and Yosemite Boulevard was considered by the Council.

The City Manager reported the City Attorney had recommended that the matter be referred back to the Board of Zoning Adjustment for another hearing, this recommendation was based upon the possibly illegal procedure employed in rendering the decision. The City Manager joined in said recommendation.

Planning Director Smeath stated that Mr. Warner would prefer to waive any possible protest which he might have on the action of the Board and asked the Council to set a hearing at this time to avoid delay in proceedings. He reported that the basis of the City Attorney's recommendation was that one of the Board members, who had voted on the Resolution establishing the conditions for the variance, had not attended the public hearing.

If there is any question on the legality of the action taken by the Board, Mayor Marks pointed out, in order to avoid problems in the future, the Council should proceed as recommended by the City Attorney.

Mr. Warner reported that he had consented to the voting of the Board member before he had voted on the resolution which established the conditions for the variance.

Acting City Attorney Jensen stated that although the possibility that anyone would protest was remote, the city owed it both to Mr. Warner and to the people in the area. to refer it back to the Board.

Councilman Arata expressed objection to the delay and inconvenience to the general public on matters of this type and urged that a "speed-up" system be used by the City.

## RESOLUTION NO. 58-132

A RESOLUTION REFERRING THE APPEAL FILED BY CHARLES D. AND BERNICE G. WARNER TO THE BOARD OF ZONING ADJUSTMENT AND REQUESTING THE BOARD TO GIVE PROMPT CONSIDERATION TO THE APPEAL

Introduced by Arata                      Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                                      Absent: Anderson

DISCUSSION ON DRYDEN PARK MUNICIPAL GOLF COURSE 2-72

With the unanimous consent of the Council a matter was considered which had not been included in the agenda---progress being made in the completion of the Dryden Park Municipal Golf Course.

Don Lapan, Chairman of the Board of Directors of the Modesto Municipal Men's Golf Club, introduced Ed Curran, member of the Club Committee, who spoke for the club members who were present at the meeting.

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Mr. Curran asked why the city proposed only to expend approximately one-half of the \$52,000 allocated for the Dryden Park Municipal Golf Course in the 1957-58 budget. If the unexpended balance was reallocated to this project in the next year's budget, he stated, "John Q. Public", reading the newspaper would get the wrong impression. He reviewed the expenditures and appropriations in the budgets on the golf course since the start of the project. He pointed out that the average expenditure for the past four years had been \$15,000, which would mean that at this rate it would take 15 years to complete the course. He stated that the members of the Club had attended this meeting for the purpose of urging the Council to speed up the construction program on the course. He contended that the Club had been made various promises on the completion of the course by the Council during the past four years which had not been kept. He stated that, other than the purchase of land during the past four years, the City records showed that only \$8,000 had been spent on actual work on the course. If this course was completed, he stated, it would be reasonable to expect that the city would have a net revenue above expenditures from the course of \$15,000 annually. The property now owned by the City not only has to be maintained to keep the weeds down, but it is off the tax rolls and costing the city money the longer the delay.

Mayor Marks pointed out that the delay in the construction was the responsibility of the Council and not the staff since the amounts allocated in the budget for the project were established by the Council.

The City Manager commended the Club members on their assistance in the grading of the course. He pointed out that the plan for the development of the first nine holes had been dropped after extended consideration with the Golf Course Architect, members of the Council, and some of the Club members. There are two basic reasons why the Council has determined to place the course high on the list, 1) gift of land by Mr. & Mrs. Dryden; 2) the revenue derived from the course would pay the cost of operation, and be a source of additional revenue for the City.

Until this year generally the funds allocated in the budget have been expended, the City Manager stated. The total amount of \$52,000 allocated for this year could be expended prior to July 1, if the Council so decides, he reported. It was proposed by the staff that the remaining rough grading be completed, one of the wells be tied in, some trees be bought and water pipe for the main water system be purchased during this fiscal year. Sufficient money would be left to purchase the remainder of the water pipe needed if the Council desired.

Mr. Curran asked why the city had not immediately installed the water pipe after the club members had finished the grading in April 1957, since funds had been allocated in the budget. He contended that if all these funds were not expended in this fiscal year they should not revert back to the general reserve fund but remain in the golf course allocation.

The City Manager answered Mr. Curran's question--the reasons why the pipe had not been purchased at the beginning of the fiscal year because, before pipe was bought, it was necessary to determine the exact size and length, the type and number of valves and fittings. Before this was done it was necessary to determine the sources of available water. All this takes time, he pointed out, and there were many other important projects which must be considered besides the course. He reported on the various tests made on the existing wells which would be able to furnish the kind and volume of water needed for the course. These tests had to be made prior to the design of the pipe system. A check also had to be made on the type of pipe to be used, which consumed additional time. It was planned to go to bid on the pipe during the month of January because a more economical bid could be obtained at that time of the year. The heavy winter rains created many other problems which meant that the course project had to be delayed further.

Some of the Council members assured Mr. Curran that if the total amount allocated was not expended during this fiscal year that it would be reallocated the next year. Mr. Curran contended that this would not be a correct picture to the general public since it would appear that the City was expending approximately \$75,000, instead of \$50,000.

It was pointed out that although money is appropriated for certain items in the budget, it does not mean it is immediately available since the city's income is based on collections throughout the year.

Mr. Ray pointed out that the reason it had not been proposed to buy all the pipe and stock pile it on the course was because funds would not be available to install the pipe. He stated that it had been his understanding that it was to be installed by volunteer assistance and so far he had not seen any concrete plan in this regard. The additional pipe can still be bought this year, he stated, and it can be installed by city forces or by contract.

The City Manager reported on the work which would have to be done in order to complete the course:

- 1- The Council cannot commit itself now to spend money next year until it adopts the budget and it cannot commit itself at all to spend money the second year because the law does not permit it and this Council membership may be quite different after an election next spring;
- 2- A rough estimate of the cost to complete the course is approximately \$165,000, which includes the cost of the additional land needed, \$25,000 for the additional pipe not yet ordered by bid, and cost of installation of pipe by contract;
- 3- This sum does not include a clubhouse or completion of driving range;
- 4- If the installation is done by volunteer work, it would mean considerable savings in the cost of the course;
- 5- A proposal that a portion of the course be sold, without jeopardizing the course is now being considered. This would reduce the net cost of the course.

The City Manager stated that in fairness to the Drydens and the Club members, the City should try to complete the course during the next two fiscal years. He stated that a report with a specific proposal would be submitted to the Council for consideration pointing toward one-half of the cost to be appropriated in this year's budget and the balance in the second year's budget. He pointed out that this would not be effective unless and until authorized by the City Council responsible. He stated that if the Course could not be seeded this winter and spring, the seeding would have to be held over until fall or winter since seeding should be done at the proper season.

Mayor Marks recommended that all the pipe be purchased at this time.

Harry Rix, President of the Club, stated that there would be members in the Club who would be capable of installing the pipe.

Director of Parks and Recreation Lowrey answered a question from Mayor Marks by stating that it would be practical for the city to purchase all the pipe needed at this time on the basis that the installation labor would be furnished by the club members.

## MOTION

That the balance of the funds allocated in the current year's budget be spent for the acquisition of water pipe needed for the course, and used for whatever is necessary, including earth moving (rough grading)

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

Mayor Marks pointed out that even if the course was completed in two years as outlined in the City Manager's proposal, it would still leave the course without a clubhouse.

Mr. Lapan stated that "With this group, where there's a will there's a way. If we have the golf course, there'll be a clubhouse".

Mayor Marks stated "that's what I like to hear".

The City Manager suggested that the staff confer further with the club members and present a further report for Council consideration with the budget.

Mrs. George Thomas, speaking for the Women's Golf Club, asked that the fact---there will be a clubhouse---be clarified. She reported that the Women's Club had been sponsoring fund raising functions for the past 3 years to purchase furnishings for a clubhouse and were willing to go on with the project if they could be assured that there will be a clubhouse.

Mayor Marks agreed that it would be difficult to do without some type of clubhouse but asked that "first things be taken first" and get the course out of the way but the club should continue with its fund raising projects.

Councilman Arata commended Gene Johnson who had helped clear matters necessary in obtaining the donation of the land by the Drydens and helping get the course started.

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR CONSTRUCTION OF EQUIPMENT GARAGE AT CORPORATION YARD 6-92

RESOLUTION NO. 58-133

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF THE EQUIPMENT GARAGE AT CORPORATION YARD

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None      Absent: Anderson

The time set for the opening of the bids was 2:30 P.M., May 26.

FINAL ADOPTION OF ORDINANCE NO. 241-C.S. RELATING TO MOTOR BUSESSES 6-104

ORDINANCE NO. 241-C.S. entitled,

"AN ORDINANCE AMENDING SECTION 6-7.207 OF ARTICLE 2 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO MOTOR BUSESSES, AND REPEALING SECTION 6-7.209"

introduced on May 7, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None              Absent: Anderson

CONSIDERATION OF PRELIMINARY BUDGET AND SET DATE FOR PUBLIC HEARING 6-107

The City Manager suggested that a written proposal of the schedule, based on last year's hearings, be submitted to the Council by the staff, to which the Council concurred.

REPORT ON INSTALLATION OF SIDEWALKS, CURBS AND GUTTERS ON SYCAMORE AVENUE BETWEEN ORANGEBURG AND ROSEBURG AVENUES 6-110

The City Manager reported that pursuant to Council direction, notices had been sent to those property owners in the area who had not yet installed curbs and gutters. All except five of these owners have proceeded to install these improvements, he reported, and a further check will be made before proceedings are started.

It was agreed by the Council that no action should be taken at this time, the matter to be placed on the agenda for the next meeting, and that in the meantime, the five owners who had not complied be again contacted.

ACCEPT RIGHT OF WAY AGREEMENTS FOR WIDENING McHENRY AVENUE 6-126

Four right of way contracts for widening of McHenry Avenue, which were listed by the City Manager, were presented for Council approval.

RESOLUTION NO. 58-134

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Moved by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None              Absent: Anderson

The City Manager stated that a complete report on the project would be made to the Council shortly. He asked the Council members to call at the city hall at their convenience, to discuss the list of remaining property owners who had not yet deeded their right of way to determine if they could give some personal assistance to Allen Odell, representative of the American Right of Way and Appraisal Contractors.

AUTHORIZE RELEASE OF SUBDIVISION BOND-ART WYLIE-CAMPUS HEIGHTS 7-16

The City Manager reported that the Director of Public Works had reported that the work had been completed in the Campus Heights Addition and it would be in order to release the subdivision bond which had been filed to guarantee the improvements.

RESOLUTION NO. 58-135

A RESOLUTION AUTHORIZING THE RELEASE OF SUBDIVISION BOND FILED BY JOE NUNES, JR., KATHERYN NUNES, ARTHUR J. WYLIE AND FLORENCE E. WYLIE TO GUARANTEE SUBDIVISION IMPROVEMENTS IN THE CAMPUS HEIGHTS SUBDIVISION

Introduced by Robinson      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                  Absent: Anderson

REPORT ON PROPOSED IMPROVEMENT OF TERESA STREET 7-20

Director of Public Works Ray reported that pursuant to Council direction of March 26, the staff had prepared plans and specifications for the paving of Teresa Street, between Carver and Tebbutt. Investigations were also made on the engineering feasibility of including other streets in the area in an improvement district.

He reported that the tentative plans for the storm drainage system for the northwest section of the city would involve all of the other streets except a short section on Tebbutt Avenue, north of Orangeburg. While it would be possible to proceed at this time on the paving of the entire area, in the event the people were willing, the staff considers that the best alternative available at this time would be to proceed under improvement district proceedings with the paving of Teresa Street and include curbs and gutters only for the other streets. Following this installation the city could then oil the streets. He stated that the property owners on the other streets had not yet been contacted because the staff wished further direction from the Council. He recommended that the staff be authorized to poll the area to determine if there was sufficient interest for the installation of curbs and gutters only on the other streets and that Teresa Street, between Carver and Tebbutt, be paved.

## MOTION

That the staff be directed to proceed on the project as outlined by the Director of Public Works.

Moved by Merrill Seconded by Robinson Unanimously carried

AUTHORIZE DISPOSAL OF GARDEN REFUSE AT THE CITY'S SANITARY LAND FILL AREA 7-50

Pursuant to Council approval to investigate the possibility of making new arrangements for temporary disposal of garden refuse, Director of Public Works Ray reviewed the problems involved in burning grass cuttings at the airport disposal area. The staff has discussed this matter with some of the members of the Council Garbage Committee and wish to propose that the City dispose of its garden refuse on the city's sanitary land fill site, by cut and cover method, as is presently done with garbage. The cost of covering the refuse by the Modesto Garbage Company, which would average 28 loads daily, would be 62¢ per load. This method would be used only during the summer months when most of the refuse would be lawn cuttings, which is most difficult to burn. The brush would still be transported to the airport disposal area since it can be burned satisfactorily. He estimated the total seasonal cost to be approximately \$2275, based on an average of 28 loads per day.

Councilman Arata raised a question as to using the area for this material since the city would need it for garbage.

The Council discussed the possibility of using a trench system at the airport for the disposal of the refuse to avoid burning of the material.

## MOTION

That the city's sanitary land fill area be temporarily used to dispose of the garden refuse.

Moved by Merrill Seconded by Adams Unanimously carried

APPROVE ADVANCE OF FUNDS FOR STREET RESURFACING 7-117

The Director of Public Works reported on the proposed program for the improvement of city streets which would be started prior to the beginning of the fiscal year so that it could be completed.

during the summer season. He pointed out that the winter rains had caused severe damage to many of the streets and new breaks were being discovered constantly. The streets involved, he reported, would be 14th St. from D to F Street; 12th Street from Needham to K Streets, 15th Street from K to H Streets; Kimble from Morris to Downey Avenue; also Needham between 11th and Ninth Street, at an estimated cost of \$17,720.

The principle of the advance appropriation of funds was discussed briefly by the Council.

The City Manager pointed out that the State had changed the law so that cities could get started on gas tax projects prior to July 1 and avoid a "rush" program. He stated that it would be necessary to transfer the funds from the general reserve in this year's budget.

**RESOLUTION NO. 58-136**

**A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$17,720 FOR STREET IMPROVEMENT PROGRAM FROM THE GENERAL RESERVE TO STREETS-CONSTRUCTION MATERIALS**

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                      Absent: Anderson

The Council discussed the setting up of a special fund for these projects in the city's budget but it was agreed that the program would be handled through the general reserve.

**CLEAR MEMBERSHIP OF CITY MANAGER ON LEAGUE COMMITTEE 8-65**

The City Manager reported that he had been asked to serve as a member of the League Committee on Streets and Highways.

**MOTION**

That the City Manager be authorized to serve as a member of this committee.

Moved by Hammond      Seconded by Arata      Unanimously carried

**GRANT PERMIT TO MODESTO CITY EMPLOYEES' ASSOCIATION TO INSTALL VENDING MACHINES IN CITY BUILDINGS 8-63**

A letter was read from the Modesto City Employees' Association asking permission to install vending machines of various types in the new city hall and soft drink vending machines in the Community Service Center.

**MOTION**

That the request of the Association to install vending machines be approved.

Moved by Robinson      Seconded by Arata      Unanimously carried

**DISCUSS REDUCTION OF TAXES ON AIRPORT PROPERTY 8-74**

With the unanimous consent of the Council, Councilman Arata was permitted to present a matter not on the agenda----taxes on Modesto City-County Airport.

He stated that the city's taxes on the airport property had increased from approximately \$5900 to \$8,000 annually since the purchase of the additional land at the airport. He suggested that the staff make a study on the possibility that the city could be relieved by the county from paying any taxes. He pointed out that the city maintained the airport and absorbed any losses in its operation. Since the enlargement of the facilities it would also be necessary to increase the personnel at extra costs. If the area was annexed, he pointed out, the city would receive additional sales tax and business license revenue.

**MOTION**

That the staff be directed to work with the county to determine what could be done on this matter.

Moved by Merrill      Seconded by Robinson      Unanimously carried

**PRESENTATION OF BOOKLET "YOU AND YOUR PUBLIC" 8-100**

Copies of this booklet prepared by the California League of City Employees were distributed to the Council members. The City Manager reported that copies had also been distributed to each city employee.

**REPORT ON CITY DEBT LIMIT AND BONDED INDEBTEDNESS 8-105**

The City Manager reported for the record that copies of this report had been sent to the Council (Analysis of Authorized Bonded Debt of the City, dated May 7 from Finance Director to City Manager).

Mayor Marks noted that the city was in excellent shape and urged that it be kept this way.

**REPORT ON FOLGER'S GIANTS BASEBALL SALUTE TO MODESTO 8-108**

The City Manager displayed a poster on Folger's "Salute to Modesto Day with the Giants", Saturday May 17, at 11:30 A.M. over Radio Station KBEE. The City Clerk was directed to send a reminder to the Council members to tune in on the program.

**ANNOUNCEMENT OF CONFERENCE ON URBAN RENEWAL AND REDEVELOPMENT 8-116**

The City Manager called attention to the Statewide Conference on Urban Renewal and Redevelopment to be held in San Francisco on Thursday, May 22. He asked the Clerk to check with the Council members and make transportation arrangements for all those who planned to attend.

**ADJOURNMENT**

**MOTION**

That the meeting now in session be adjourned.

Moved by Hammond      Seconded by Arata      Unanimously carried

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Mayor Marks

Absent: Councilmen: Hammond and Robinson

Councilman Hammond arrived at 4:07 P.M. and Councilman Robinson arrived at 4:10 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Dodds Bunch gave the invocation.

#### APPROVAL OF COUNCIL MINUTES

Council members having received copies of the minutes of the Council special meeting of May 6 and regular meeting of May 7, and the same being available for public inspection and there being no objections, the minutes were approved.

#### MAYOR MARKS RECESSED MEETING TO CONTINUE YOUTH IN GOVERNMENT DAY PROGRAM 1-13

Student officers of the Youth in Government Day, sponsored jointly by the Kiwanis Clubs, the City, and the City Schools, were introduced:

Mayor Dick Norquist  
Councilmen Ron Rhyno, Pete Falger, David Kidd, Jerry Bookwalter,  
Gary Hoagland, Roy Morgareidge  
City Manager Richard Corson  
City Attorney Ben Seal  
City Clerk Jerry Ebie

The theme "Capital Improvements" was selected by the students for this year's program. Reports were made by the student committees recommending capital improvements for each city department.

The Student City Council meeting had convened at 3:30 P.M., recessed at 4 P.M. so that the regular City Council meeting could be called to order. Mayor Marks recessed this meeting at 4:07 P.M. so that the student meeting could be continued.

#### MAYOR RECONVENES COUNCIL MEETING

The Council meeting was reconvened at 4:27 P.M. by Mayor Marks. He thanked all those whose cooperation had made another Youth in Government Day a success.

#### LETTER FROM SEARS, ROEBUCK & COMPANY REGARDING USE OF PARKING LOTS 2-20

A letter from Sears, Roebuck & Co., relating to use of parking lots was read and ordered referred to the staff for investigation and report.

#### LETTER FROM CALIFORNIA RELAYS 2-29

A letter was read from California Relays asking that the Council approve an additional appropriation of \$500 for this year's event being held on May 31, to assist in defraying extra costs involved and that an appropriation of

\$1250 be made in the 1958-59 budget instead of the usual \$750. Mr. Tom Moore, Director of the Relays appeared in behalf of the organization.

## RESOLUTION NO. 58-137

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$500 FROM GENERAL RESERVE TO MUSIC & PROMOTION - CALIFORNIA RELAYS

Introduced by Adams      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Hammond, Robinson, Mayor Marks  
 Noes: :None                  Absent: None

The City Manager pointed out that the request for appropriation of \$1250 for the fiscal year 1958-59 would be considered during the budget discussions.

OFFER OF BARIUM PRODUCTS LTD. TO PURCHASE SURPLUS STEEL LIGHT POLE  
 2-69

An offer of \$25 was received from Barium Products Ltd., to purchase a surplus, salvaged steel light pole owned by the city.

Director of Finance Bird reported that the matter had been cleared with the Acting City Attorney, who had advised the sale could be consummated by the adoption of a resolution by the Council.

## RESOLUTION NO. 58-138

A RESOLUTION AUTHORIZING THE SALE OF SURPLUS STEEL LIGHT POLE TO BARIUM PRODUCTS LTD., FOR THE SUM OF \$25, FOB CORPORATION YARD OF CITY OF MODESTO

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                  Absent: None

MAYOR COMMEND ASSISTANT CITY MANAGER MASONHEIMER ON MANAGEMENT OF YOUTH IN  
 GOVERNMENT DAY PROGRAM 2-85

Mayor Marks commended Assistant City Manager Masonheimer on his efficient management of the Youth in Government Day.

INVITATION FROM CITY OF TURLOCK TO ATTEND "BILLY GRAHAM" MEETING 2-91

A letter, with attached resolution, from the City of Turlock, was read, inviting the Council and staff to hear Billy Graham at its Golden Jubilee Freedom of Religion Day, May 25 at 8:00 P.M. at the Turlock Union High School football field.

The City Clerk was directed to make reservations for those who wished to attend the meeting.

HOLD OVER AWARD OF BID ON CONSTRUCTION OF 10 UNIT T HANGAR 2-115

The City Manager asked that the award of the bid on this be held over for further clearance. It was so ordered by the Council.

INSTALLATION OF 8" WATER MAIN IN BLOCK 6737 (TULLY ROAD): TO BE DONE BY  
 CITY FORCES 2-116

The City Manager reported that no bids had been received for the installation of 8" water main in Block 6737. The estimated cost for doing the work with city forces, he stated, was \$1,629.30 and recommended that the work be done on this basis.

RESOLUTION NO. 58-139

A RESOLUTION AUTHORIZING THE INSTALLATION OF 8" WATER MAIN IN BLOCK 6737 ASHFORD TRACT, AND TULLY ROAD, FROM BRIGGSMORE TO RONALD AVENUE

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                      Absent: None

ACCEPT BID WILLIAM MINENI FOR CONSTRUCTION OF CONCRETE STAIRWAY AT THOUSAND OAKS PARK 2-120

The City Manager reported receipt of four bids for the construction of stairway at Thousand Oaks Park, which had been opened at 2:15 P.M., May 19 in the office of the City Clerk. He recommended that the low offer of \$1,449 submitted by William Mineni, be accepted.

RESOLUTION NO. 58-140

A RESOLUTION ACCEPTING THE BID OF \$1,449 FROM WILLIAM MINENI FOR THE CONSTRUCTION OF A CONCRETE STAIRWAY AT THOUSAND OAKS PARK IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                      Absent: None

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR INSTALLATION OF 8" WATER MAIN ON HIGHWAY 99 CARVER ROAD 2-126

RESOLUTION NO. 58-142

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF 8" WATER MAIN ON HIGHWAY 99 BETWEEN HANEY AVENUE AND CARVER ROAD AND CARVER ROAD BETWEEN HIGHWAY 99 AND ORANGEBURG AVENUE

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                      Absent: None

The time set for opening the bids was May 19 at 2:15 P.M.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR IMPROVEMENT OF 8TH STREET AND G STREET 3-1

RESOLUTION NO. 58-141

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR IMPROVEMENT OF 8TH STREET-WASHINGTON TO L AND G STREET-14TH TO BURNEY STREETS

Introduced by Merrill      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                      Absent: None

The time set for the opening of the bids was 2:30 P.M., June 2, 1958.

SET DATE FOR PUBLIC HEARING ON 1958-59 BUDGET FOR CITY OF MODESTO 3-14

Copies of the tentative time schedule for hearings on the 1958-59 budget calling for the public hearing to be held on June 11 and adoption of the budget on June 25 were presented for Council consideration by the City Manager.

## RESOLUTION NO. 58-143

A RESOLUTION SETTING THE DATE FOR THE PUBLIC HEARING ON THE PROPOSED BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR 1958-59

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: None

It was agreed by the Council that it would generally follow the time schedule but that the first meeting would be held at 4:00 P.M., Tuesday May 27 instead of Thursday May 22, that this meeting would be adjourned until that time, and that time and dates for future meetings be determined at prior Council meetings.

Mayor Marks suggested that prior to the hearings the Council members could clear any questions they wished to raise relating to the budget with the City Manager.

APPROVE APPROPRIATION TRANSFER FOR FUNDS (HAAS PROPERTY) NORTHERN BOULEVARD ACQUISITION 3-90

## RESOLUTION NO. 58-144

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$1,026 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY FUND FOR APPRAISAL WORK AND LEGAL FEES ON THE HAAS PROPERTY

Introduced by Robinson      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: None

PROGRESS REPORT ON IMPROVEMENTS AT THE TREATMENT PLANT AND APPLICATION FOR FEDERAL FUNDS 3-94

The City Manager reported that the Sewer Council Committee had met with the staff to discuss the improvements proposed at the treatment plant by the city's Consulting Engineer, Harry Jenks.

Director of Public Works Ray reviewed the matters raised with the committee, and the report presented by Mr. Jenks, consisting of recommendations on proposed expansion of treatment plant facilities. These provide for 1) another clarifier, 200 ft. in diameter; 2) a mixing basin 200 ft. in diameter, approximately 6 to 8 ft. water depth, for an activated sludge operation. Results of the two years of pilot plant studies indicate that best results can be obtained in b.o.d. and suspended solids removal from the plant by the use of the activated sludge process in secondary units. Mr. Jenks purposes that these installations be constructed. This would result in the discontinuance of primary oxidation pond, except for emergency purposes. This would still leave the secondary 10 acre oxidation pond in use at this time, plus the percolation bed if required. This proposal does not complete all of the final units as proposed for the sewage treatment processes at this location, but it is proposed that this all be done at this time in order that the experience in operation can be obtained prior to the completion of the final units.

He stated that this proposal by Mr. Jenks was a very sound approach and recommended that the city proceed on this basis. It is necessary to submit prior to the end of this month an application to the State Pollution Control Board, if the city expects to obtain Chapter 660 Federal law funds for treatment plant facility expansion, and in order to prepare an application for these funds, it is necessary these improvement proposals be cleared with the Council at this meeting.

He discussed the unfair priority rating established by the state on the distribution of federal funds, which means that Modesto did not have a priority rating to qualify for funds. He recommended that no immediate steps be taken to provide these two units unless the city may obtain such funds.

The City Manager reported that the state had agreed to "take a new look at the priority system". The door is now open, he stated, to review with the State Pollution Board the basis upon which the funds are apportioned. It is also possible that the law will be amended by Congress.

Mr. Ray estimated the cost of the proposed improvements to be approximately \$400,000 and asked for Council authorization to prepare an application on this basis. The federal fund participation to those who are given allocation amounts to 30%, which would mean in this case \$120,000.

Councilman Adams, Chairman of the Council committee, reported that the committee approved this recommendation.

#### RESOLUTION NO. 58-145

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AND SIGN AN APPLICATION TO THE CALIFORNIA STATE WATER POLLUTION CONTROL BOARD FOR FEDERAL FUNDS FOR SEWAGE TREATMENT PLANT CONSTRUCTION**

Introduced by Adams                      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                                      Absent: None

#### DISCUSSION ON GARBAGE DISPOSAL SITE 4-50

With the unanimous consent of the Council, Councilman Merrill was granted permission to raise a matter not on the agenda---use of the city's sanitary land fill area by the county.

Since it is reported the county would be unable to use its garbage area until July, due to flooded conditions, he stated he was concerned that the city's limited area would be utilized too fast. The Council committee recommends that a conference be held with the County Board of Supervisors committee to discuss a solution to this problem. He stated that this was an official notice to the general public that the committee was concerned about the use of the city's sanitary land fill area by the entire county population.

#### MOTION

That the Council approve the policy of the Council committee and that a meeting be arranged between the city and county committees as soon as possible.

Moved by Mayor Marks                      Seconded by Adams                      Unanimously carried

#### REQUEST OF VALLEY HOME AND GARDEN SHOW FOR EXEMPTION FROM ADMISSION TAX 4-70

A letter requesting exemption from the Admission tax fees for its show held recently, filed by Valley Home and Garden Show was considered by the Council. Lee G. Hampson, General Chairman, appeared in behalf of the request.

Acting City Attorney Jensen reported it would be impossible to exempt this organization from paying the tax under the present code regulations. To alleviate this situation for future shows, an amendment to the code could be adopted by the Council, he reported.

## MOTION

That the staff investigate and report to the Council on what other cities are doing on similar type shows.

Moved by Merrill      Seconded by Adams      Unanimously carried

The City Clerk was directed to notify Mr. Hampson when the matter would be again considered by the Council.

REPORT ON P STREET TRAFFIC SIGNALS 5-03

The City Manager reported that the staff was proceeding with the Council's suggestion that a transfer of property be worked out with property owners on P Street. Most of the property, north of P Street is owned by the Tidewater Southern Railway and a check is being made with the company and a report will be submitted soon.

REPORT ON REQUEST THAT CITY PAVE A PORTION OF CHICAGO AVENUE 5-16

The City Manager reported that the preliminary map of the Paradise Center Addition, recently annexed to the city had been approved by the Planning Commission. The developer, Elliott Navon, has requested that the city participate in the cost of paving Chicago Avenue leading from Sutter Avenue to Paradise Road, on the north side of James Marshall Park, just east of the property in the Addition which is to be commercially developed.

Safeway Stores is the owner of land north of the park and is presently outside the city limits, the City Manager reported. It is proposed that further efforts be made to secure the cooperation of the Safeway people to participate in the cost of paving. He asked for Council direction before proceeding with this project.

Mr. Navon stated that he would pave whatever the city required (40 feet) even if the entire street was not paved.

The City Manager stated that he would recommend that the city participate if Safeway Stores would agree to also participate.

## MOTION

That the City Manager be directed to write a letter to the Safeway Stores requesting cooperation on the paving and report to the Council.

Moved by Arata      Seconded by Robinson      Unanimously carried

REPORT BY CITY ATTORNEY ON STATUS OF CITY MEMBERSHIP AND REPORT OF CITY CLERK ON ATTENDANCE OF COUNCILMAN ANDERSON TO COUNCIL MEETINGS 5-80

The City Manager noted that the Council members had been furnished a report by the City Clerk on the attendance of former Councilman Anderson to Council meetings since January 1, 1958.

Mayor Marks pointed out that at his request the Clerk had notified Mr. Anderson twice of the Charter provision relating to membership on the City Council.

The report was ordered filed with the records of this meeting.

Acting City Attorney Jensen's report, dated May 21, 1958, on the subject "Vacancy on City Council" was read and ordered filed with the records of this meeting. The report set forth that Section 502 of the City Charter provided that "an elective office becomes vacant when the incumbent thereof shall have been absent from the State without leave for more than sixty

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consecutive days or fails to attend the meeting of the body of which he is a member for a like period without being excused therefrom by said body". Since Mr. Anderson had not attended a meeting since March 12, the Charter provision would be self-executing and no action would be necessary to declare this vacancy. As of May 18 at 12 midnight the office held by Mr. Anderson became vacant, the report set forth.

The letter received from Councilman Anderson submitting his resignation was ordered filed.

DISCUSS ADOPTION OF RESOLUTION ESTABLISHING ONE-WAY TRAFFIC ON CALIFORNIA AVENUE-H TO JEFFERSON STREET 5-126

Traffic Engineer Carmody reported on his proposal to establish one-way traffic on California Avenue between H and Jefferson Street. Some of the Council members indicated that an "on-the-spot" investigation would be desirable before adoption the resolution. Mr. Carmody was directed to make arrangements with the individual members on the date and time of day to inspect the location.

REPORT ON SALARY SAVINGS IN ELECTRICAL DIVISION-PUBLIC WORKS DIVISION 6-75

Copies were distributed to the Council members.

REPORT ON SENIOR CITIZENS' CENTER 6-90

The City Manager noted that copies of the report from the Director of Parks and Recreation and the Planning Director of May 19, 1958 on "Recommendations for Location of Senior Citizens Center" had been distributed previously to the Council members, a copy of which is enclosed with the records of this meeting.

Based on this report, the City Manager recommended that the building be located in Enslin Park. A letter from the sponsoring organizations, Soroptimist Club and Women's Improvement Club, concurring in this recommendation, was noted.

Councilman Arata suggested that the surrounding residents be polled to determine if they objected to this building in the park.

Mrs. Alta Coffee and Ione Hadley, members of the sponsoring organizations, spoke briefly on their plans for the building and operation of the Senior Citizens Center.

Councilman Hammond asked for a more detailed report on the plans for the operation of the center to assure that it would not become the responsibility of the city, in the future years. The City Manager stated a copy of the previous report submitted by the organizations would be sent to him. He pointed out that a contract agreement could be executed by the City and the two clubs to assure its operation.

MOTION

That an informal hearing be set for 8:00 P.M., May 28 in the Council Chamber at the regular Council meeting and those persons residing within a radius of 300 feet of the proposed location of the Senior Citizens Center be notified so that they may have an opportunity to express their feelings about the proposed plan, and the responsibility for operation be checked out further with the clubs.

Moved by Merrill      Seconded by Arata      Unanimously carried

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The City Manager suggested that the clubs visit with some of the surrounding residents and explain their proposed program to clear questions in advance.

AUTHORIZE CHANGE IN STREET NAME OF NORTH WILSON AVENUE TO WILSON AVENUE 8-42

RESOLUTION NO. 58-146

A RESOLUTION CHANGING THE STREET NAME OF NORTH WILSON AVENUE BETWEEN ROBLE AND ENCINA AVENUES TO WILSON AVENUE IN THE CITY OF MODESTO

Introduced by Arata                      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                                  Absent: None

AUTHORIZE CHANGE OF NAME OF PORTION OF HANEY AVENUE 8-42

RESOLUTION NO. 58-147

A RESOLUTION CHANGING THE NAME OF A PORTION OF HANEY AVENUE TO PRINCETON AVENUE AND NAMING AN UNNAMED STREET AS PRINCETON AVENUE IN THE CITY OF MODESTO

Introduced by Arata                      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                                  Absent: None

REPORT FROM PLANNING COMMISSION RE: ZONING 9-67

A letter received from the Modesto City Planning Commission was read requesting that the City Council recommend to the County Board of Supervisors that the County not remove existing exclusive agricultural zoning or land use zoning from areas near Modesto City, and particularly north of Modesto City and adjacent to the City along North 99 Highway, until the County and City Legislative bodies have received and studied the recommendations of the County Advisory Planning Commission and City and County Planning Commissions for land use proposals of the general plan and until proper zoning to take the place of the existing regulations has been prepared, approved, and is ready for adoption.

Smeath  
Planning Director/outlined the areas under discussion and briefly reviewed the problems involved. He pointed out that the thinking has been by some people that if the zoning is removed, enough bad things will happen in the area that it will encourage people to again ask for zoning. The City Planning Commission feels that this is a dangerous concept and that if the present zoning is to be removed some other appropriate zoning should be proposed and be ready in advance.

Mayor Marks agreed that this would be a dangerous doctrine and proposed that a resolution be prepared and sent to the Board of Supervisors as suggested by the City Planning Commission.

MOTION

That the staff prepare a resolution along the lines discussed for Council consideration at the next meeting to be sent to the Board of Supervisors prior to its public hearing scheduled for June 23.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

REPORT ON SALES TAX MEETING 9-17

Councilman Hammond reported on the recent joint meeting of the city and county committees on sales tax matters. The conclusions of the meeting

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were 1) the Wise report would be studied as to its errors and factual content, 2) the cities would include other items which entered into fiscal relationships, such as irrigation district, etc. 3) the report was prepared on primary beneficiaries, not second or third beneficiaries, 4) it was further agreed that all figures be assembled within a six month period.

He reported that there has been considerable discussions by persons, not members of the legislative bodies, that the cities have stalled on the matter. None of the members of the legislative bodies have accused each other of stalling but recognize that this has been a mutual problem and only could be handled by joint efforts of both the county and cities. He recommended that the staff present to the Council a report listing items which should be studied in the Wise report. He suggested that the basis of determining police costs was in error and there may be other sections which should be scanned as to the selection of data used in preparing the report. He indicated that the irrigation district item should be considered and also the airport.

He called the Council's attention to the fact that the burden of costs is on the cities but the cities are in an unusual position of trying to assist the county in developing an additional source of revenue and having to provide their own funds and expense to disburse their own money to the county. He considered that the city should ask the Board of Supervisors to share in the expense of these studies on the same basis upon which the Wise report was shared, also to possibly assign one of the county personnel to assist in these studies so that the county would have a basis of information. He also suggested that since many of the studies were of joint interest to all cities, that these studies be worked out jointly with other cities and that the city keep in touch with the other cities in compiling the information.

He reported that it was agreed by the committee that the ultimate conclusions of this study would be based on facts and not on threats of boycotting or other forms of coercion or power politics. For the general welfare of the county, it was agreed, that the studies should be based on facts since the whole problem was highly complex. He reported that this was approved by the committee.

The City Manager suggested that a copy of the final resolution adopted at the meeting be made a part of the Council record at the next meeting, to which the Council concurred.

Councilman Hammond suggested that the staff present its report by the next Council meeting on matters to be studied in the report. A time schedule should be worked out, he stated, with a staff's estimate of the approximate cost of the study.

The City Manager reported on some of the checking of the welfare section of the report being made by other cities, Turlock, and Oakdale reports have already been sent in. Turlock indicates that one-half of the welfare cases charged to the city actually lived outside the city.

#### MOTION

That the Council approves the recommendations outlined by Councilman Hammond.

Moved by Robinson      Seconded by Adams      Unanimously carried

#### REPORT ON VISITOR TO CITY

With the unanimous consent of the Council the City Manager was permitted to raise a matter not on the agenda----that Modesto would be honored by the visit next week of a Mayor from one of the Brazilian cities, being sent here under the auspices of the U. S. State Department.

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LETTER FROM THOMAS K. BEARD SUBMITTING RESIGNATION AS MEMBER OF THE PERSONNEL COMMISSION 2-68

This matter was ordered deleted from the agenda since Mayor Marks reported that Mr. Beard had agreed to serve an additional 60 days. The Mayor suggested that in the meantime the Council members be considering a replacement for Mr. Beard.

MAYOR MARKS DECLARES RECESS

Mayor Marks declared a recess at 6:20 P.M. so that the Council could meet in executive session to consider an appointment to the existing vacancy on the City Council.

Mayor Marks reconvened the Council meeting at 6:45 P.M.

APPOINTMENT OF DR. THOMAS M. SPAULDING AS MEMBER OF THE COUNCIL 10-1

RESOLUTION NO. 58-148

A RESOLUTION APPOINTING DR. THOMAS M. SPAULDING TO THE VACANCY EXISTING IN THE OFFICE OF COUNCILMAN OF THE CITY OF MODESTO

Introduced by Robinson            Seconded by Adams  
Ayes: Adams, Hammond, Robinson, Mayor Marks  
Noes: Merrill                        Absent: Arata

ADJOURNMENT

MOTION

That this Council meeting be adjourned until Tuesday, May 27, 1958 at 4:00 P.M. to consider the budget for fiscal year 1958-59.

Moved by Merrill            Seconded by Adams            Unanimously carried

ATTEST:

  
Rex E. Gallifus, City Clerk

The Council of the City of Modesto met in adjourned regular session this date at 4:00 P.M., having adjourned from the regular meeting of May 21, in the Council Chamber at the McHenry Public Library, 14th and I Streets, as provided by Section No. 2-1.01 of the Modesto Municipal Code, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Adams, Merrill, Spaulding and Mayor Marks

Absent: Councilmen Arata, Hammond, Robinson

Mayor Marks announced that the meeting had been called to consider the proposed budget for the fiscal year 1958-59.

Page 14- City Council-- No questions were raised on the proposed budget

Page 15- City Manager-- Councilman Merrill asked for information on item 208 Business Expense.

Director of Finance stated that this new account-"business expense"-would appear in other departments also since "Business and Conference" account was being shown in two categories in this budget instead of one as was done in previous budgets, to classify the two expenses and clearly indicate portion of funds used for regularly attended conferences and funds used for the regular business of the city.

Mayor Marks noted that item 218, 221, 223--relating to office equipment, might be discussed later to consider advisability of renting instead of purchasing equipment.

Mr. Bird stated that these three accounts provided the normal maintenance and repair of existing equipment without consideration of purchasing new equipment.

No further questions were raised.

Page 16- City Attorney-- Councilman Merrill asked about the supplemental request of \$5,182 for an Assistant City Attorney. City Attorney asked that any consideration of this matter be delayed until his study showing necessity for the position now underway could be completed.

Account 505- Law Library (\$750), the City Attorney stated this was a regular annual expenditure for the current maintenance of the law library.

Page 17- City Clerk and Auditor-- The City Attorney reported on the need for a revision of the descriptive word index of the Modesto Municipal Code. Since the adoption of the Code in October 1954, he stated, the traffic, zoning, business license regulations and many other regulations have been revised and added to the Code which have made the index obsolete. He also pointed out the urgent need for storage facility for Code pages. The City Manager pointed out that funds for the revision of the index had been included in this budget and funds from the City Hall Bond account would be used for the purchase of a storage system of a type which could be removed and used in the new City Hall.

No other questions were raised.

Page 18- Finance-- Councilman Merrill asked for information on the type of camera and light meter proposed (item 505 for \$250) to be purchased. He considered this cost excessive.

Mr. Bird reported that several departments had indicated a need for a camera and this item was a proposal that one camera be purchased, it be centralized in the office service division for use by all departments. The type of camera to be purchased is not yet cleared but based on the other departments requests, a tentative cost of \$250 was determined. It is possible that one could be purchased for a less amount.

The City Manager stated that a further report would be submitted on this item, if requested by the Council.

Item 505 "Electric Typewriter 16" is proposed to replace a mechanical typewriter and the request is made on the basis that the volume of work in the purchasing section has increased to the point, it would be more efficient to have an electric typewriter, Mr. Bird stated,

Item 505-Coin Sorter Collection Cart: Mr. Bird stated the machine would eliminate the sorting of coins at the office and there would be a material savings of time and labor.

No other questions were raised.

Page 19- Personnel-- The City Manager reminded the Council that at its direction, last year's budget was prepared on the basis that no portion of the Assistant City Manager's salary would be charged to this department, although he spends considerable time on personnel matters. He considered that it would be more accurate from an accounting basis if a portion of the Assistant City Manager's salary were charged in this budget.

Item 236--Suggestion System increased from \$375 to \$750. The City Manager pointed out that the system had only been in effect for a portion of the 1957-58 fiscal year. A further report will be made on this matter.

#### MOTION

That one third of the Assistant City Manager's salary and expenses be charged in the Personnel budget.

Moved by Merrill                      Seconded by Adams                      Unanimously carried

Page 22- City Hall Building-- Councilman Merrill urged that long distance calls (item 204 communications \$7,800) be kept to a minimum. The City Manager stated that continual efforts to reduce the calls were being taken in each department and pointed out that the major part of this expense was for the maintenance of the p.b.x. Board. The exact figures could be given to the Council at a later meeting, the City Manager stated.

Mr. Bird reported that a record of all calls going through the switch-board is kept and this record is reviewed periodically and analysed from the economical viewpoint.

Item 505-folding chairs (12). Whether the chairs purchased for the Community Center could be used jointly by the City Hall and the Center was discussed but deemed economically inadvisable. The City Manager stated that these chairs would be of a type which will and can be used in the new city hall for permanent use.

No further questions were raised on this department.

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Page 26- Health-- A payment of \$1500, included in the miscellaneous unclassified section of the budget, is made to the county for health services rendered the city, as per agreement, Mr. Bird reported.

Mr. Masonheimer reported that the County has asked the staff to consider an increase in the allocation. This is being checked out with County representatives and a report will be made by the staff.

Page 23- Fire Department-- The City Manager called attention to the statement listed on page 23a relating to inclusion of personnel and other items necessary for an estimated four month operation during 1958-59 of the new fire station at McHenry and Orangeburg Avenues. If it is determined that this station will not be in operation during the 1958-59 fiscal year the budget for this department can be reduced by \$9,238. A report, requested previously by the Council on preparation of standard plans for fire stations by the City staff or outside help, would be submitted shortly, the City Manager stated. He stated that he intended to propose to the Personnel Commission and then to the Council some ideas for better utilization of present personnel. It was pointed out that this amount could be placed in the reserve and the amount made available if the station was completed before June 30, 1959.

#### MOTION

That the sum of \$9,238 be deleted from the Fire Department budget and included in the general reserve.

Moved by Mayor Marks                      Seconded by Merrill                      Unanimously carried

The City Manager reported on the hose replacement program which is financed on an annual basis. He pointed out that the extra equipment included in the capital outlay section would be placed on the new fire truck recently purchased by the city.

No other questions were raised.

Page 25- Police Department-- The City Manager noted the supplemental request on page 25 (a) relating to personnel, equipment and operating items totaling \$27,617 (not included in budget) needed to take care of a larger city, and especially if and when additional annexations were completed. He pointed out that if the large northeast area addition now under consideration was annexed, increased police personnel would be imperative.

Mayor Marks asked the City Manager to submit to each Council member a separate detailed report on this particular section, giving the basis on which this particular expenditure was considered necessary, to enable the Council to make this policy decision.

The City Manager stated that he was convinced that the staff could propose some way to the Council for utilizing some of the existing personnel or new help as hired, which will mean that the service will be less costly. The City is beginning to reach a point where the cost of some of these services force it to look for other methods. A report will be presented also on this matter, supplemental to the other report so that both reports can be considered at the same time.

Councilman Merrill asked if all of the items of furniture listed in the capital outlay section would be needed when the department was rearranged after the city hall was built.

Police Chief Bowers stated that the items were replacements for existing furniture and equipment which would be too costly to renovate. The use to be made of the regulation typewriter 15" requested in the capital outlay section was explained by Chief Bowers.

Item 429--other special charges: Mr. Bowers reported that the increase in appropriation covered a carry-over of \$1200 in the current budget for participation in the national FBI Academy School. He reported on the siren replacement program which would result in a standardized type of siren on all police equipment, at reduced costs.

The City Manager noted that the bicycle licensing activity was being transferred to the fire department and, in this way, would be done without increased personnel.

Item 130--overtime. Some of this is unavoidable but some extra men would decrease the amount, Mr. Bowers stated. It also represents payments to officers for policing baseball games which is paid back to the city by the Modesto Reds Baseball Club. He reported on operations to reduce overtime payments by reassigning personnel timewise.

Mayor Marks declared the Council meeting recessed at 5:03 P.M. and reconvened the meeting at 5:07 P.M.

Page 27- Disaster and Civil Defense-- The City Manager reported that one third of the Assistant City Manager's salary was charged to this department, that the capital outlay items would be required even without federal participation in the costs. The complete price of the equipment is shown in the budget but the city will be reimbursed a certain percentage on various items, by the federal government.

Councilman Adams' question was answered by the City Manager that other cities and communities were budgeting funds for this type of program. He considered that it was "an absolute must in his judgment that the city be prepared for disasters". He pointed out that the city had just recently had an emergency when the recent flood occurred and was available for federal assistance, and that disasters could occur on a moments notice and the city must be prepared.

This program is simply a means of being prepared to meet the unusual, The city is a part of the county disaster and civil defense, and works directly with the state, he stated. operation

No other questions were raised.

Page 20- Planning-- Supplemental request by the Director of Planning, but not provided for in this budget, the City Manager noted, was for a part-time Associate Planner to aid in project work under way and to assist in annexation work. The cost of providing this assistance is estimated to be \$4,985 for the 1958-59 fiscal year.

#### MOTION

That the City Manager submit a separate, brief and concise report to the Council outlining the details of the supplemental request, and the necessity for the request.

Moved by Merrill                      Seconded by Mayor Marks                      Unanimously carried

The City Manager reminded the Council that a new work list would be submitted relating to all city departments.

No other questions were raised on this departmental budget.

Page 21- Planning--Advance Planning Division

The City Manager reported that the amounts shown in this budget represented the city's share determined for the program on a contractual arrangement with the county. No other comments were made or questions raised.

5-27-58 Page 4

Page 43- Music and Promotion-- It was agreed that the proposed appropriation of \$1200 for the Modesto Band remain as is and if an additional request was made by the Band to participate in transportation costs to send the Band to the State Fair an additional appropriation be considered.

MOTION

That due to the extensive publicity received for the City of Modesto from the California Relays that an annual appropriation be made to this organization of \$1250 instead of \$750, the increase to be taken from the General Reserve Fund.

Moved by Merrill      Seconded by Adams      Unanimously carried

The City Manager stated that he would confer with Councilman Hammond and Arata, members of the Council committee, regarding a review with the Chamber of Commerce relative to the industrial program.

Page 44- Miscellaneous Unclassified-- The City Manager reported on various items included in the section. Councilman Merrill asked for information regarding item 421- special surveys, \$2000. Mr. Bird reported that it was an estimated amount for the study and installation of a new filing system which will be used in conjunction with the new city hall. He also reported that all city insurance was included in this section of the budget except on the Riggs Building which is budgeted under the parking fund. Other items noted and briefly discussed were, probable increase in costs for city-county health agreement, taxes, and sales and use tax paid annually by the city to the state.

APPROVAL OF PORTION OF BUDGET

MOTION

That the Council tentatively approve the budgets of the departments considered with the changes as made.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

The City Clerk was asked to remind the City Manager to check with the Council members who were not present so that he could go over the budgets discussed with them individually in order to save the time of the Council members who had attended this meeting.

ACCEPT RESIGNATION OF DR. THOMAS M. SPAULDING FROM THE MODESTO CITY PLANNING COMMISSION AND BOARD OF ZONING ADJUSTMENT

RESOLUTION NO. 58-149

A RESOLUTION ACCEPTING THE ORAL RESIGNATION OF DR. THOMAS M. SPAULDING FROM THE MODESTO CITY PLANNING COMMISSION AND BOARD OF ZONING ADJUSTMENT

Introduced by Mayor Marks      Seconded by Merrill  
Ayes: Adams, Merrill, Spaulding, Mayor Marks  
Noes: None      Absent: Arata, Hammond, Robinson

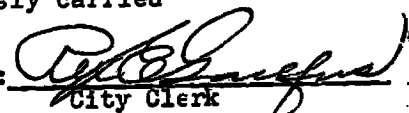
ADJOURNMENT

MOTION

That this Council meeting be adjourned until 4:00 P.M. Thursday June 5.

Moved by Merrill      Seconded by Adams      Unanimously carried

The meeting was adjourned at 5:25 P.M.

ATTEST:   
City Clerk

Page 43- Music and Promotion-- It was agreed that the proposed appropriation of \$1200 for the Modesto Band remain as is and if an additional request was made by the Band to participate in transportation costs to send the Band to the State Fair an additional appropriation be considered.

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APPROVAL OF PORTION OF BUDGET

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Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

The City Clerk was asked to remind the City Manager to check with the Council members who were not present so that he could go over the budgets discussed with them individually in order to save the time of the Council members who had attended this meeting.

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Introduced by Mayor Marks      Seconded by Merrill  
 Ayes: Adams, Merrill, Spaulding, Mayor Marks  
 Noes: None      Absent: Arata, Hammond, Robinson

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## MOTION

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Moved by Merrill      Seconded by Adams      Unanimously carried

The meeting was adjourned at 5:25 P.M.

ATTEST:   
 City Clerk

5-27-58 Page 5

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Spaulding, Mayor Marks

Absent: Councilmen: Hammond, Robinson

The pledge of allegiance to the flag was given by those present.

Rev. Charles Koontz, pastor of the Grace Brethern Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of May 14, and the same being available for public inspection and there being no objections, the minutes were approved.

#### INTRODUCE GUEST OF COUNCIL

Mayor Marks introduced Mayor Jose Mario Monaco from Berto Goncalves, Brazil, and John Hamstreet, his interpreter from the U. S. State Department.

Mayor Monaco acknowledged the introduction with a few remarks.

#### LETTER FROM EXCHANGE CLUB RE: CHILDREN'S PARK IN MODESTO 1-62

A letter received from the Exchange Club of Modesto was read, requesting that the city consider starting a children's playground similar to the "Dennis, the Menace Playground" in Monterey, Mitchell Park in Palo Alto and Fairyland in Oakland. They proposed that this program be a community wide project to be financed by all Service Clubs in the city and other interested groups and individuals, to be placed on city park property in a location where it would be easily and readily accessible, and suggesting Beard Brook Park as an ideal location, and asking that the staff be authorized to investigate such a facility as to the location, the availability of the project as to those desiring to use it, and the general feasibility of such a program.

Schuyler Reid Hafely, Chairman of the Club Committee, displayed pictures of the three parks showing facilities for children under six years of age and for others.

#### MOTION

That this matter be referred to the staff to work with the Exchange Club and submit a report to the Council on the feasibility, location and method of financing.

Moved by Merrill      Seconded by Arata      Unanimously carried

#### LETTER FROM FRANK ANDREWS REGARDING COUNCILMAN APPOINTMENT 2-60

The letter was read and ordered filed.

LETTER FROM MILLER MANUFACTURING COMPANY 2-87

A letter/<sup>was read</sup> from Miller Mfg. Company, protesting to the payment of delinquent penalty charge of \$17.84 on its business license fee for quarter ending March 31, 1958. The Company claimed that its check had been mailed prior to the delinquent date of May 1, and should have arrived at the City office prior to May 7, as reported by the Director of Finance.

Finance Director Bird stated that the envelope, in which the check had been mailed, had been destroyed, but that the procedure for handling delinquent reports has been revised so that all envelopes will be retained.

## MOTION

That the matter be referred to the staff to check with the company and report to the Council.

Moved by Arata      Seconded by Merrill      Unanimously carried

LETTER FROM M. C. ZECKOS RE: EXTENSION OF NOTRE DAME TO ROSEBURG 2-112

A letter was read from M. C. Zeckos advising that he had an opportunity to sell his property on Roseburg Avenue if Notre Dame could be extended to this street.

## MOTION

That the matter be referred to the City Manager to check with Mr. Zechos and Mr. John Quaresma, owner of property in the area, to determine the legal obligations and report to the Council.

Moved by Arata      Seconded by Adams      Unanimously carried

INFORMAL HEARING ON SENIOR CITIZENS CENTER LOCATION 3-19

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the informal public hearing on a proposal to locate a Senior Citizens Center on the northeast corner of Enslin Park.

The City Manager reported that notice had been sent of this informal hearing to those persons residing in close proximity to the proposed location. A precise report on the proposal of the Soroptimist Club and Modesto Women's Club to finance the building and operate the center, he stated, has not yet been completed, but would be available soon.

Communications from the following persons opposing the proposed location were read:

W. E. Eagleson, 453 W. Morris Avenue  
H. W. Matthies, 441 W. Morris Avenue  
F. H. Stuhr, 423 W. Morris Avenue

A petition with 20 signatures of persons living in the area, protesting the installation of the Center in the park, was read. The basis of the objections were: 1) violation of use of property dedicated to the City for park purposes; 2) parking of additional cars would aggravate an existing parking problem caused by swimmers in the MID Canal, Boy Scout activities in the clubhouse located in this park and attendants to ball games and picnics.

Director of Parks & Recreation reported on investigations made by the staff and clubs on locating the facility in other park sites.

Mayor Marks asked if anyone wished to make any oral protests or comments.

Pietro Giambanco, 417 W. Morris, and F. H. Stuhr, 423 W. Morris, spoke in opposition to the location.

Alta Coffee, President of the Scroptimist Club and Mrs. Ione Hadley, President of the Women's Improvement Club spoke in favor of the Enslan Park site. Mayor Marks suggested that the club members call on some of the people in the area and explain the program so that it would be thoroughly understood and in this manner reduce the opposition. Mrs. Coffee answered a question of Mayor Marks' that the clubs would want to make a thorough study of any alternate site which might be suggested before making a decision.

Councilman Arata considered that the most desirable location for the building would be in the rear of the Modesto Community Service Center in the T. B. Scott Park on East Morris Avenue. He stated that adequate parking could be furnished, there would be a savings on janitor service since both buildings could be served by one janitor, the location of a freeway near the building would not be a disadvantage because the possibility was so remote and if it was used for this purpose the State would reimburse for all improvements, it would eventually be centrally located in the city since the surrounding area was being developed very rapidly and the site would be easily accessible to participants. He expressed his approval of the principle of a center but not at the Enslan Park site.

Councilman Merrill commended the clubs on their project but <sup>that</sup> he opposed the Enslan Park site which would make it necessary to remove existing trees for an inadequate parking facility. He stated that "I would hate to see another building put on Enslan Park". He expressed approval of the T. B. Scott Park site.

This statement was followed by applause from the audience.

The City Manager suggested that the staff be given an opportunity to work on the problems of the location, financing and operation with the interested parties and organizations and present a further report to the Council.

The possibility of locating the center on other than park property was briefly discussed. Mayor Marks declared the informal hearing closed.

#### MOTION

That the matter of selection of the site be postponed until the staff and the two clubs have a further opportunity to study the matter and report back to the Council.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

#### INVITATION FROM FOURTH OF JULY COMMITTEE TO COUNCIL MEMBERS TO PARTICIPATE IN THE PARADE 5-60

The City Clerk was directed to check with the members to determine those who wished to participate in the parade.

#### AUTHORIZE CALL FOR BIDS FOR LAMPS FOR FISCAL YEAR 1958-59 5-100

#### RESOLUTION NO. 58-150

#### A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING

5-28-58 Page 3

FOR BIDS FOR FURNISHING FOB MODESTO INCANDESCENT, FLUORESCENT AND MERCURY VAPOR LAMPS FOR THE FISCAL YEAR 1958-59

Introduced by Mayor Marks    Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None    Absent: Hammond, Robinson

The time set for the opening of the bids was 3:00 P.M. June 16, 1958.

AUTHORIZE CALL FOR BIDS FOR OFFICIAL ADVERTISING FOR FISCAL YEAR 1958-59 5-101

RESOLUTION NO. 58-151

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING THE OFFICIAL ADVERTISING FOR THE FISCAL YEAR 1958-59 FOR THE CITY OF MODESTO

Introduced by Adams    Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None    Absent: Hammond, Robinson

The time set for the opening of the bids was 2:00 P.M. June 16, 1958.

ACCEPT BID OF R. J. NAYLOR COMPANY FOR CONSTRUCTION OF TEN UNIT T HANGAR AT CITY COUNTY AIRPORT 5-115

RESOLUTION NO. 58-152

A RESOLUTION ACCEPTING THE BID OF R. J. NAYLOR COMPANY IN THE SUM OF \$25, 497 FOR THE CONSTRUCTION OF TEN UNIT "T" HANGAR AT THE CITY COUNTY AIRPORT

Introduced by Adams    Seconded by Spaulding  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None    Absent: Hammond, Robinson

BIDS ON VALVES, PIPE, FITTINGS, SERVICE CLAMPS 5-110

Copies of the tabulation of the bids received for pipe, valves, fittings, and service clamps for the golf course water system were distributed for Council inspection.

Director of Public Works Ray recommended that the low bid of \$22,338.70 submitted by Ewing Turf Products on alternate items 1a, 2a, and 3a be accepted. He pointed out that the specifications provided that in consideration of alternate bids, the Council may give a preferential credit of 5% to bids submitted under A.W.W.A. specifications, because of the higher test required on that pipe. He reported that the low offer had been submitted on the basis of the alternate specifications and was slightly over the 5% preferential credit. All the offers submitted for A.W.W.A. pipe are identical, except for deliveries, he pointed out.

Mayor Marks noted that all of the bids, except Ewing Turf Products, were identical, and questioned the method of bidding used by the companies.

Ralph B. Phillips, manager of Howk Well & Equipment Company, the local bidder on pipe, stated that pipe was an extremely competitive item and bidders were working on less than 5% profit. He stated that list prices were published and the bids should be identical. He asked for consideration on award of bid since his company was established in the city. He stated he was upset about the alternate bid furnished by Ewing Turf Products. He reported that he had explained in his bid that he could deliver on demand and it would not be necessary for the city to stock pile pipe in its yard.

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Mayor Marks stated that if the prices were all identical on this type of merchandise needed by the city, the local bidder is entitled to preference in award of bid. He asked if there was any legal way to get around this problem and avoid the expense and "silliness" of advertising for bids on pipe if every bidder is going by list price.

The City Manager stated that Mayor Marks and Mr. Phillips had raised a very important point which has bothered cities and dealers both for a long time. He asked for time to check out this problem with Mr. Phillips to see what could be determined to assist both the city and the bidders.

Mr. Phillips stated that he could furnish the city or volunteer help who would be installing the pipe in the golf course, cutting tools, machining tools, and free advice, in addition to stock piling the pipe with "delivery on demand".

Mr. Ray stated that the specifications had been prepared and presented to the Council because the department considered that there was a definite difference in the two specifications for pipe. He stated that he would prefer to have the A.W.W.A. pipe but he considered that it was reasonable to assume a 5% difference provided in the specifications should be taken into account. He stated that after a thorough study, he had made his recommendation on the award of bid only on the basis of the specifications and proposals as received.

#### MOTION

That the award of the bid be continued over until next Council meeting and authorizing the City Manager to check into the matter.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

Mr. Ray recommended that the low offer of \$1,137.97 submitted by Crane Company for valves and fittings, items 4 through 11, be accepted.

#### RESOLUTION NO. 58-153

**A RESOLUTION ACCEPTING THE BID OF CRANE COMPANY OF \$1,137.97 (2% 10th Prox.) FOR VALVES AND FITTINGS**

Introduced by Adams                      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
Noes: None                                      Absent: Hammond, Robinson

Mr. Ray recommended by the low offer of \$822.89 submitted by Water Works Supply Company for service clamps, items 12 through 19, be accepted.

#### RESOLUTION NO. 58-154

**A RESOLUTION ACCEPTING THE BID OF WATER WORKS SUPPLY COMPANY OF \$822.89 FOR SERVICE CLAMPS**

Introduced by Arata                      Seconded by Mayor Marks  
Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
Noes: None                                      Absent: Hammond, Robinson

#### AWARD BIDS FOR PIPE AND VALVES FOR REGULAR CITY USE 7-26

Tabulation of the bids received for pipe and valves to be used in the city's water distribution system was presented by Director of Public Works Ray. He recommended that the bid received from U. S. Pipe and Foundry on item 1 of \$33,660 be accepted.

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## RESOLUTION NO. 58-155

**A RESOLUTION ACCEPTING THE BID OF U.S. PIPE AND FOUNDRY IN THE SUM OF \$33,660 FOR CAST IRON PIPE**

Introduced by Spaulding      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Hammond, Robinson

Mr. Ray recommended that the bid of \$21,502 submitted by Johns-Manville for alternate items 2a, 3a, and 4a on Asbestos Cement pipe be accepted. He based his recommendation on the fact that although both bids submitted were identical, the Crane Company had not quoted a delivery date.

Sven Pedersen, representative of Johns-Manville, stated that the pipe offered was a direct sale item by his company and was not a distribution item. He stated that golf course and irrigation pipe was not in this category and that it was a matter of policy with his company as to the ramifications of selling irrigation pipe vs selling to a political subdivision. The point previously presented by Mayor Marks would not be applicable in this instance, since they are entirely different markets. The company feels that it cannot serve the irrigation market by direct selling. The company has chosen to sell this type of merchandise through distributors. To a question from the City Manager regarding the similarity of the bids, Mr. Pedersen stated that the reason was-----freight equalization.

The City Manager questioned this explanation and asked that additional time be taken on the award of bid.

Mr. Pedersen asked that his management be permitted to discuss the matter with the City Manager. The Council concurred in the suggestion--- that the City Manager be given <sup>an</sup> answer from the company on principle and the Council on dollars and cents.

## MOTION

That the award of bid on items 2a, 3a, and 4a, be held over until this matter has been cleared.

Moved by Arata      Seconded by Adams      Unanimously carried

Mr. Ray recommended that the bid of Crane Company for items 5 through 8 for valves in the sum of \$3,588.88 be accepted.

## RESOLUTION NO. 58-156

**A RESOLUTION ACCEPTING THE BID OF CRANE COMPANY IN THE SUM OF \$3,588.88 FOR VALVES**

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Hammond, Robinson

**ACCEPT BID OF EDWARD A. TOMLINSON FOR CONSTRUCTION OF EQUIPMENT GARAGE AT CORPORATION YARD 7-92**

## RESOLUTION NO. 58-157

**A RESOLUTION ACCEPTING THE BID OF EDWARD A. TOMLINSON IN THE SUM OF \$12,470 FOR THE CONSTRUCTION OF THE EQUIPMENT GARAGE AT CORPORATION YARD IN THE CITY OF MODESTO**

Introduced by Adams      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Hammond, Robinson

## RESOLUTION NO. 58-158

**A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$2000 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY CORPORATION YARD BUILDING**

Introduced by Arata      Seconded by Mayor Marks  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond, Robinson

**APPROVE SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR WATER LINE MATERIALS FOR GOLF COURSE 7-127**

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## RESOLUTION NO. 58-159

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING PIPE, FITTINGS AND QUICK COUPLER VALVES-DRIED MUNICIPAL GOLF COURSE**

Introduced by Arata      Seconded by Spaulding  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond, Robinson

The time set for the opening of the bids was Monday, June 16 at 2:00 P.M.

The City Manager stated that the possibility of using plastic pipe for the irrigation system at the golf course had been thoroughly investigated by the staff before it was determined it should not be used.

**AUTHORIZE CALL FOR BIDS FOR INSTALLATION OF WATER LINE IN WESTLAND MANOR NO. 2 8-17**

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## RESOLUTION NO. 58-160

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE INSTALLATION OF WATER LINES IN WESTLAND MANOR NO. 2**

Introduced by Adams      Seconded by Mayor Marks  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond, Robinson

The time set for the opening of bids was Monday, June 9 at 2:00 P.M.

**HOLD OVER ORDINANCE ESTABLISHING ADMINISTRATIVE DEPARTMENTS OF THE CITY 8-20**

The City Attorney reported copies of the ordinance would be distributed to the Council members for study prior to its consideration. He pointed out that section 1000 of the City Charter provides for the adoption of an ordinance setting forth the organization, function, and operation of several offices and departments of the city. All the departments of the city have been included in the proposed ordinance, and it will merely be an expression by uniform legislation of the existing organizational structure.

**CONSIDERATION OF BUDGET MATTERS 8-16**

Mayor Marks suggested that any further discussion on the budget be postponed until Thursday, June 5 at 4 P.M. but that the Councilmen who had been absent from the first budget meeting be furnished copies of the minutes as soon as possible.

The City Manager suggested that these Council members check with him on any questions they wished cleared on the budgets discussed at the first meeting.

5-26-58 Page 7

APPROVE RENEWAL OF AGREEMENT WITH HARRY N. JENKS FOR CONSULTING SERVICE  
ON SEWAGE TREATMENT PLANT 8-46

RESOLUTION NO. 58-161

A RESOLUTION APPROVING EXTENSION OF AGREEMENT BETWEEN THE CITY OF MODESTO AND HARRY N. JENKS FOR CONSULTING SERVICES TO JUNE 30, 1959

Introduced by Merrill    Seconded by Adams  
Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
Noes: None                    Absent: Hammond, Robinson

HOLD OVER RESOLUTION REQUESTING COUNTY NOT TO REMOVE EXCLUSIVE AGRICULTURAL  
ZONING NORTH OF AND ADJACENT TO CITY 8-54

The City Manager reported that this matter had not yet been cleared. The Clerk was directed to place the item on the agenda as soon as the matters had been cleared.

HOLD OVER ESTABLISHING OF ONE-WAY TRAFFIC ON CALIFORNIA STREET, H STREET TO  
JEFFERSON 8-56

John Feltes, 216 Ruberto, asked that this matter be held over for further study and discussions with the Planning Director, Traffic Engineer Carmody, and residents in the area, and West Side Committee.

MOTION

That the matter be referred to the staff to work with all interested residents in the area and the West Side Committee.

Moved by Mayor Marks    Seconded by Arata    Unanimously carried

It was agreed that the report be made within three weeks.

CONSIDER REALIGNMENT OF TUOLUMNE BOULEVARD EXTENSION 9-13

Because of personal interest in the matter, Councilman Dave Arata left the meeting temporarily at 9:30 P.M.

The City Manager reviewed the previous Council discussion on the State's plans for routing the traffic, which did not wish to proceed on the freeway, on Tuolumne Boulevard.

Mr. Carmody stated that the project under discussion concerned the extension of Tuolumne Boulevard easterly from the freeway, along the north side of the river to a position in the vicinity of 11th Street and Morton Boulevard, going under the 7th Street bridge, S.P. and Tidewater Southern Railway tressles and 9th Street bridge. The Division of Highways is now designing the Tuolumne Boulevard interchange and if the city plans to tie this extension into the interchange, it should go on record as indicating that this is its intention.

If a resolution is passed by the Council, it would be the signal for the Division of Highways to make more widespread studies in that area, with possibly a slight change in the Tuolumne Boulevard interchange and perhaps the actual construction of a portion of this road as one of the ramps to the freeway.

Councilman Merrill asked who would pay for the condemnation and severance charges.

The City Manager answered that 1) the state will pay for the portion necessary to carry the Tuolumne Boulevard traffic under and back up to Tuolumne Boulevard, 2) it is proposed for consideration beyond that as an alternate route to crossing the tracks at the 7th and B Street intersection, to carry it on at the same level along and come up beyond all of the tracks and 9th Street bridge---this part would be a city project. The State must know at this time if this is to be done at any future time since, if so, provision must be made now in the design of the intersection.

Councilman Merrill objected to the proposed extension since it would divide valuable orchard property into two units which would make it uneconomical to operate.

Mr. Carmody pointed out that the proposed street would be located as near the bank as possible.

**RESOLUTION NO. 58-162**

**A RESOLUTION EXPRESSING INTEREST OF THE CITY OF MODESTO IN THE POSSIBILITY OF EXTENDING TUOLUMNE BOULEVARD TO THE EAST AND ASKING THE STATE OF CALIFORNIA DIVISION OF HIGHWAYS TO MAKE THE NECESSARY STUDY TO DETERMINE IF IT WOULD TIE IN WITH THE FREEWAY WORK.**

Introduced by Mayor Marks      Seconded by Adams  
Ayes: Adams, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Arata, Hammond, Robinson

Councilman Arata returned to the Council meeting at this time.

**CONSIDER MATTER OF ADDITIONAL SPACE FOR THE CITY ATTORNEY 9-120**

City Attorney Grimes reported on a proposal for securing additional office space in the Carleton Building in which the City Attorney's office is now located, by including a portion of an adjoining office. This increased space would relieve the crowded condition of the present office, he pointed out. The increased cost would be \$42.50 per month and would increase the space from 324 sq. ft. to 486 sq. ft., making a total rental for the Attorney's office of \$117.50 monthly.

Councilman Arata reported that Mrs. Dora Shannon, owner of the building had contracted him and offered to rent the additional space for \$40 monthly instead of \$42.50, and cost of remodeling to be assumed by the owner.

**MOTION**

That the rental of the additional space for the City Attorney's office be approved on the basis of \$40 monthly rent previously offered by Mrs. Shannon to Councilman Arata.

Moved by Adams      Seconded by Spaulding      Unanimously carried

**REQUEST PUBLIC UTILITIES COMMISSION TO GIVE PROMPT CONSIDERATION TO APPLICATION OF WILLIS M. KLEINENBROICH DBA MODESTO MOTOR BUS SERVICE FOR AUTHORITY TO INCREASE RATES AND FARES 10-60**

Mayor Marks read a letter received from Willis M. Kleinenbroich, owner of the Modesto Motor Bus Service asking that the Council indicate its approval by resolution, that the Public Utilities Commission give prompt consideration to Application 40104 filed by him to increase bus rates, without a public hearing.

Mr. Kleinenbroich, who was present, stated the proposed increase would raise the student tickets from 10 rides for 75¢ to 10 rides for \$1.00, and

eliminate the reduced adult ticket (10 rides for \$1.50).

Mr. Carmody reviewed his report on the application, a copy of which is on file with the records of this meeting. He suggested that the Council request the Commission to go into a full-scale study of mass transit in Modesto including increased efficiency, charter service as a source of revenue, and other available means that would not accept an annual decline in patronage of 6% to 16%.

The Council approved this suggestion.

#### RESOLUTION NO. 58-163

A RESOLUTION REQUESTING THAT THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA GIVE PROMPT CONSIDERATION TO APPLICATION NO. 40104 OF WILLIS M. KLEINENBROICH, AN INDIVIDUAL D.B.A. THE MODESTO MOTOR BUS SERVICE FOR AUTHORITY TO INCREASE RATES AND FARES ON STUDENT REDUCED TICKET FARES AND TO ELIMINATE THE USE OF ADULT REDUCED TICKET FARES FOR THE TRANSPORTATION OF PASSENGERS IN AND BETWEEN POINTS IN AND ABOUT THE CITY OF MODESTO, CALIFORNIA AND REQUESTING THE COMMISSION TO CONDUCT A STUDY ON INCREASED EFFICIENCY OF THE BUS SYSTEM.

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond, Robinson

#### MOTION

That the staff be authorized to give any possible assistance to Mr. Kleinenbroich in this matter.

Moved by Merrill      Seconded by Mayor Marks      Unanimously carried

#### REPORT ON OUTER RAIL AND BARRIER CURB FOR MODESTO FREEWAY ROUTE 4 12-40

Mr. Carmody reported on the staff's recommendation to the state on the proposed construction of the overcrossing of the freeway on city streets.

Barrier Curb, which tends to separate cars from pedestrians, should be at normal curb height without a railing, which would permit the parking of cars and the pedestrian to get out of the curb side of the car.

Outer Rail, a higher outer rail is preferred, either 5' or 6' so that it would not put the top of the rail at pedestrian eye level. Rail to be formed by vertical steel bars at 6" to 12" spacing which would afford pedestrians and passengers in cars a view of freeway traffic.

#### MOTION

That the staff's recommendation to the State Division of Highways, as outlined by Mr. Carmody be approved.

Moved by Adams      Seconded by Spaulding      Unanimously carried

#### QUARTERLY REPORT FILED ON MODESTO CHAMBER OF COMMERCE ACTIVITIES 12-79

The City Manager noted that the required quarterly report of the Modesto Chamber of Commerce activities was filed.

#### HOLIDAY PAY CASE REPORT 12-83

With the unanimous consent of the Council, the City Attorney was permitted to raise a matter not on the agenda---report on holiday pay case.  
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The demurrer of the city to the first amended complaint of the holiday pay for policemen was sustained without leave to amend by the Court. A judgment will now be entered and the plaintiffs, if they wish to press the litigation further, will have to make an appeal to the District Court of Appeals.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:   
CITY CLERK

Council Meeting  
June 4, 1958

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Hammond, Merrill, Robinson, Spaulding, Mayor Marks

Absent: Councilmen: Adams, Arata

Councilman Adams arrived at 4:06 P.M.

Councilman Arata arrived at 4:09 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. J. Paul Miller gave the invocation.

#### APPROVAL OF COUNCIL MINUTES

Council members having received copies of the minutes of the regular meeting of May 21 and adjourned regular meeting of May 27, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM FRANK ANDREWS RE: LEGALITY OF ELECTRICIAN EXAMINATION ORDINANCE 1-17

This letter was briefed by the Mayor and ordered filed.

#### PROGRESS REPORT ON HEARINGS ON AIRLINE SERVICE TO MODESTO 1-32

Bob Schatz, local manager of the United Airlines, reported on the possibility of United Airlines service being suspended from the cities of Stockton, Merced, Modesto, Visalia and Bakersfield. He read a copy of a letter sent by the Modesto Chamber of Commerce to James F. Durfee, Chairman of the C.A.B. and to James S. Keith, Examiner, protesting the proposed suspension and substitution of a feeder line. He stated that the pre-hearing conference was being held June 5, in Washington D. C.

City Manager Miller reported that he had checked with the Board in Washington, D. C. recently and the proposal that some smaller airline company take over may be taken up as a part of this hearing. The question now is whether there should be any consideration given to any substitution and that the matter would not be determined finally at this pre-conference hearing. He considered that the city should consider intervening in this matter as an interested party. If this is done it should be done shortly, he pointed out, so that the city would be in a position to take an active part as a participant.

Councilman Arata recommended that a wire of protest be sent by the city since the airport had been enlarged to accommodate the large Convair planes at considerable expense to the city and county. The United Airlines is a recognized airline throughout the world and the substitution of a smaller, unknown, airline would not be desirable.

The City Attorney outlined the necessary legal proceedings if the city wished to intervene.

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## MOTION

That telegrams be sent to James F. Durfee and James S. Keith advising that the Council stongly protests the proposal to discontinue United Airlines service to Modesto and indicate its interest in possible intervention as interested party in proceedings.

Moved by Merrill      Seconded by Hammond      Unanimously carried

AWARD BID FOR IMPROVEMENT OF EIGHTH STREET AND G STREET 2-38

Director of Public Works Ray reported that the allocation in the memorandum of expenditure of gas tax funds for these two projects, (No. 76-8th St. and No. 78-G Street) totalled \$17,950, which would leave \$780 for engineering expnses. It is quite possible, he stated, that this will not be sufficient and it will be necessary for the city to absorb any additional costs. He reported that it would also be necessary for the City Manager to write a letter to the state requesting a transfer of some funds from Project No. 78 to Project No. 76 since the bid call was for both projects and the construction costs would exceed the allocation. The Council indicated its approval of both these proceedings.

## RESOLUTION NO. 58-164

A RESOLUTION ACCEPTING THE BID OF STANDARD MATERIALS, INC. FOR EIGHTH STREET IMPROVEMENT FROM WASHINGTON STREET TO L STREET AND G STREET FROM FOURTEENTH STREET TO BURNEY STREET OF \$17,169.88

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Absent: None      Noes: None

AUTHORIZE INSTALLATION OF 8" WATER MAIN ON 99 HIGHWAY AND CARVER ROAD 2-61

The City Manager reported that no bids had been received on the bid call for the installation of 8" water main on Highway 99 between Haney and Carver and on Carver Road between Highway 99 and Orangeburg Ave. and recommended that the work be done by city forces. He estimated the cost to be \$3,799.15.

## RESOLUTION NO. 58-165

A RESOLUTION AUTHORIZING THE INSTALLATION OF 8" WATER MAIN HIGHWAY 99 BETWEEN HANEY AND CARVER AND ON CARVER ROAD BETWEEN HIGHWAY 99 AND ORANGE-BURG AVENUE, IN THE CITY OF MODESTO BY CITY FORCES

Introduced by Merrill      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

ACCEPTING BID ON WATER PIPE FOR GOLF COURSE 2-66

Pursuant to Council direction, the City Manager reported that he had conferred with the parties concerned, Mr. Phillips of Howk Well and Equipment Company, one of the bidders, and representatives of Johns-Manville Company, regarding the indential bids received for pipe. The only alternative available to the Council if it wishes to award the bid locally, since the low bid of \$22,338.70 submitted for items 1a, 2a, and 3a by Ewing Turf Products for pipe is lower than 5% over the difference provided in the specification, would be to reject all bids and call for new bids.

The representatives from the bidding companies had been unable to explain why the bids were identical, the City Manager reported. He reported that he had advised these persons that if there was any continuing indication of identical bids, that the staff recommend some different action to the Council.

## RESOLUTION NO. 58 - 166

**A RESOLUTION ACCEPTING THE BID OF EWING TURF PRODUCTS OF \$22,338.70 FOR ITEMS 1a, 2a, 3a FOR ASBESTOS CEMENT PIPE FOR THE GOLF COURSE**

Introduced by Hammond      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**ACCEPT BID OF JOHNS-MANVILLE FOR ASBESTOS CEMENT PIPE FOR CITY WATER SYSTEM  
 3-20**

Since the Crans Company did not specify any delivery date, the City Manager reported, it is recommended that the bid of Johns-Manville of \$21,502.00 be accepted for Asbestos Cement pipe.

## RESOLUTION NO. 58 - 167

**A RESOLUTION ACCEPTING THE BID OF JOHNS-MANVILLE OF \$21,502.00 FOR ITEMS 2a, 3a, 4a FOR ASBESTOS CEMENT PIPE FOR THE CITY WATER SYSTEM**

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**HEARING ON ANNEXATION OF HILLVIEW ACRES TO THE CITY OF MODESTO 3-30**

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for the public hearing on the proposed annexation of Hillview Acres to the City of Modesto.

The City Clerk's certification that the notice of the hearing had been published as required by law, that notices had been mailed to property owners in the area, and that no written protests had been received, was noted by the Council.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comment. No comments or oral protests were made. Mayor Marks declared the hearing closed.

## ORDINANCE NO. 242-G.S. entitled

**"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE HILLVIEW ACRES ADDITION TO THE CITY OF MODESTO"**

was adopted and ordered printed and published as required by the Charter.

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**APPROVE EXTENSION OF AGREEMENT WITH STANDARD OIL COMPANY FOR LEASE OF SERVICE STATION SITE AT CLY- COUNTY AIRPORT 3-42**

## RESOLUTION NO. 58-168

**A RESOLUTION APPROVING EXTENSION OF AGREEMENT BETWEEN THE CITY OF MODESTO**

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AND STANDARD OIL COMPANY OF CALIFORNIA FOR LEASE OF PORTION OF PROPERTY AT CITY-COUNTY AIRPORT

Introduced by Arata           Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: None

EXTEND AGREEMENT FOR WATER STUDY BY WATERS, RUTH & GOING 3-43

RESOLUTION NO. 58-169

A RESOLUTION APPROVING EXTENSION OF AGREEMENT BETWEEN THE CITY OF MODESTO AND WATERS RUTH AND GOING FOR WATER STUDY FOR A PERIOD OF 60 DAYS

Introduced by Adams       Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                 Absent: None

The City Manager stated that although the extension was for a period of 60 days, the company understood that it would be desirable to complete it in advance of this time. A meeting would be held soon with the firm and Council Committee to discuss progress on the report.

ACCEPT CONTRACT FROM SPEARS CONSTRUCTION COMPANY FOR IMPROVEMENTS AT DEL WEBB FIELD 3-16

The City Manager reported that the improvements at Del Webb Field had been completed by Spears Construction Company and that it would be in order to accept the work, authorize filing of Notice of Completion and authorize payments due as provided in the contract.

RESOLUTION NO. 58-170

A RESOLUTION ACCEPTING THE CONSTRUCTION OF IMPROVEMENTS AT DEL WEBB FIELD BY SPEARS CONSTRUCTION COMPANY AND AUTHORIZING PAYMENTS DUE IN THE AMOUNT OF \$2,558.67, AND RECORDATION OF NOTICE OF COMPLETION

Introduced by Merrill       Seconded by Arata  
Ayes: Adams, Arata, Merrill, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                 Absent: None

SET DATE HEARING ON PROPOSED CLOSING OF GROVE STREET 3-67

The City Manager noted that a report had been sent to the Council on the granting of a conditional use permit to Madeline Hiatt for a parking area on her property located on McHenry Avenue at Grove Street. Indications are at present that there will be no appeal filed with the Council on this permit, he stated. The possible closing of Grove Street, which has been recommended by the Planning Commission, is now under consideration by the Council. The City Manager suggested that Wednesday, the 25th day of June at 8:00 P.M. be set as the time and place for the public hearing on the proposed closing of the street.

The Council generally discussed the proposal, some voiced objections to the closing of the street. It was pointed out by the City Manager and the City Attorney that they would have the right to vote against the closing at the time of the hearing, but in order to legally bring the matter up for a public hearing, it would be necessary to adopt a resolution of intention to vacate and abandon a portion of the street.

RESOLUTION NO. 914-S.P.  
RESOLUTION OF INTENTION NO. 262

A RESOLUTION OF INTENTION TO VACATE AND ABANDON A PORTION OF GROVE AVENUE

**BETWEEN McHENRY AVENUE AND GEER COURT IN THE CITY OF MODESTO**

Introduced by Robinson      Seconded by Adams  
 Ayes: Adams, Hammond, Spaulding, Robinson, Mayor Marks  
 Noes: Arata, Merrill,      Absent: None

**FURTHER REPORT ON AMOUNT OF FLOOD DAMAGE 3-121**

The City Manager reported on the difficulty to "pin down" the city's street damage due to the heavy rains earlier this year. The current costs were \$489 for police protection; \$1,361.41 for pumping of flooded area; \$2,404.71 for emergency street repairs, \$1,515 for traffic markers and lines, \$138 damage to parking meters and \$265 for city vehicles, totaling \$5,653.12. Indications are the costs for repairing the damaged streets, etc. will be of the order of \$57,000 but this may vary widely. In the staff's judgment, he reported, none is recoverable from the emergency funds made available for this purpose and it is recommended that no application be filed for reimbursement.

**CONSIDERATION OF APPOINTMENT TO PLANNING COMMISSION 4-16**

The City Manager stated that through error in preparation of the agenda the matter of appointment of a new member on the Board of Zoning Adjustment was omitted. He asked for unanimous consent of the Council to report on this matter.

Some of the members of the Council objected to considering this appointment at this time, without time for consideration of candidates and recommendation from the Planning Commission, but there was no objections to granting the City Manager permission to explain the urgent need for the appointment.

He explained that a check on possible attendance indicated that in order to have a quorum for the Board meeting being held on June 5, at which time three important matters would be considered, it would be necessary to make the appointment from the Planning Commission at this time. The possibility of a temporary appointment was briefly discussed.

Mayor Marks recessed the Council meeting at 4:50 P.M. so that the Council could meet in executive session to consider an appointment to the existing vacancy on the Board of Zoning Adjustment.

Mayor Marks reconvened the Council meeting at 5:15 P.M.

**REQUEST REPORT FROM CITY MANAGER ON POSSIBLE PURCHASE OF PROPERTY ADJOINING LIBRARY ON 14th STREET 5-1**

At the suggestion of Councilman Arata, the City Manager was asked to submit a report on the study for the possible purchase of the property adjoining the library building on 14th Street, which is now being advertised for sale.

**MOTION**

That the City Manager be asked for a report on this matter and that the matter be on the agenda for the next meeting.

Moved by Arata      Seconded by Robinson      Unanimously carried.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Arata      Seconded by Adams      Unanimously carried

The meeting was adjourned at 5:30 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

June 5, 1958

The Council of the City of Modesto met in adjourned regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond

Absent: Adams, Arata, Mayor Marks

REQUEST FROM CITY SCHOOLS CLOSE COLLEGE AVENUE DURING GRADUATION SERVICES 1-25

With the unanimous consent of the Council, City Manager Miller was granted permission to present a matter not on the agenda---request of the city schools to close College Avenue between Stoddard Avenue and Coldwell Avenue and barricade Morris Avenue at Myrtle Avenue prior to and during graduation exercises at the Modesto Junior College between the hours of 6:30 and 9:00 P.M., June 12, 13 and 14.

MOTION

That permit be granted to close the streets as requested by the Modesto City Schools.

Moved by Merrill      Seconded by Robinson      Unanimously carried

DISCUSSION OF 1958-59 BUDGET 1-40

Mayor Pro Tempore Hammond commended the City Manager on the preliminary budget and the clear and concise manner in which it had been prepared and presented. The method used for indicating supplemental requests, he pointed out, was especially commendable.

The City Manager was granted permission to clear some items included in budgets previously discussed on the basis of additional information not available earlier.

Postage: Due to the increase in rates effective August 1, it will be necessary to increase the appropriations.

The Director of Finance stated that the proposed increases in the various budgets was proposed for the increase in postage rates only.

MOTION

That the increases for postage, as outlined by the Director of Finance, be approved.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

Election costs (Miscellaneous budget) 1-70

Director of Finance Bird reported that the sum of \$6,000 shown in the Miscellaneous budget for election should be increased to \$9,000 to include the cost of 1959 city election. The \$6,000 represents the school's share of the election, which is offset by the same amount in the revenue section of the budget, he pointed out.

## MOTION

That the election cost in the Miscellaneous budget be changed to \$9,000.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

Mr. Bird reported that one item had been omitted from the budget, maintenance of city buildings out on rental, such as the Snedigar property and the Nisson property purchased by the city for the proposed extension of Northern Boulevard but which is temporarily being leased as residences. He recommended that \$250 be appropriated under the Miscellaneous Unclassified budget under the classification, No. 225 rental building maintenance and repair.

## MOTION

That an item No. 225 rental building maintenance and repairs in the sum of \$250 be added to the Miscellaneous Unclassified budget.

Moved by Spaulding      Seconded by Robinson      Unanimously carried

Report on telephone costs

Pursuant to Council direction, the City Manager reported the regular annual cost for the PBX Board is \$6,136.88 and the balance of \$1,375 is for toll service and telegrams.

## PUBLIC WORKS DEPARTMENTAL BUDGET

Engineering and Administration (page 33)

One question raised related to the type of dictating machine proposed to be purchased (\$364). Mr. Ray stated it was proposed to purchase a Dictaphone machine to provide a third dictator to be used by the Associate Engineers which could be used jointly with the other Dictaphone machines and transcribers.

No other questions were raised.

Inspections (page 34) 2-1

The City Manager pointed out that since the preparation of the budget, construction throughout the city had increased materially and it might be possible, if this activity continued, that at a later date it would be necessary to increase this budget, but if so there would also be increased revenue.

No questions were raised on this section of the budget.

Electrical (page 35) 2-06

The City Manager noted the reduction in personnel in this department due to the policy established by the Council of discontinuing payment by the city of the cost of installation of lights in new areas.

Questions raised by the Council and cleared by Mr. Ray related to the proposed purchase of a 20 KW Transformer; increased budget for appropriation of street lights and electroliers; and \$6,000 for perimeter street light extension in subdivisions, (reimbursed as subdivisions are developed).

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Airport (page 36) 2-47

Mr. Ray reported that due to increased activity and area of the airport, it would be necessary to request an additional laborer for six months of the year, (\$1,530). It is possible that a full time laborer will be needed for the entire year after the 1958-59 fiscal year.

The City Manager reported on the progress being made by the city to annex the airport property which would not only relieve the city from paying county taxes of approximately \$8,000 but also provide sales and use tax revenue from sales of aircraft. The Council agreed that the project should proceed as rapidly as possible.

Mr. Ray answered questions raised on item 503-water line extension to provide irrigation water to the lawn development between Conejo and Hawke hangar and item 218-equipment rental charges.

## MOTION

That item 110-salaries and wages (regular) be increased \$1530 for the part time laborer.

Moved by Robinson Seconded by Spaulding Unanimously carried

Service Division (page 37) 3-35

Capital outlay items (1-2 ton truck for streets and 1 pick-up for sewers) were explained by Mr. Ray.

Mr. Bird explained the proposed transfer of the used two door sedan from the Fire Department to the Recreation Dept. and the purchase of a new station wagon for \$1,850 to be used by the Fire Dept.

The justification statement furnished by the Parks and Recreation Department for the purchase of the heavy duty trailer was reviewed by Mr. Bird.

No further questions were raised on the service division.

Water (page 38) 3-87

The City Manager pointed out that the present indications are that the estimates of expenditures for this department should be increased.

Mr. Ray outlined changes to be made in the budget which had resulted from conditions since the preparation of the budget:

- 1- Well No. 21 and Well No. 22, included in the 1957-58 budget have not been constructed due to site problems. It is essential that the appropriation of \$23,800 for Well No. 21 and \$18,000 for Well No. 22 be included in the new budget.
- 2- The city's large tapping machine has broken down and cannot be repaired since parts are unavailable for this old type model. The estimated cost of a new machine is \$1300. Funds are available in this year's budget and if the Council approves it can be transferred and used for this purchase.

## MOTION

That the staff be authorized to purchase a new tapping machine with available funds in the 1957-58 budget.

Moved by Robinson Seconded by Merrill Unanimously carried  
6-5-58 Page 3

- 3- Item 504 new service supplies---the same amount was proposed as was proposed for the 1957-58 budget since the activity in new services had been limited but during the past two months since the budget was submitted, the appropriation has been exceeded and activity has greatly increased. It is proposed to increase this item by \$1300 making a total appropriation of \$6,500.
- 4- Item 401-memberships and dues---the dues have advanced from \$10 to \$15, and an increase of \$5 is proposed in this item.

## MOTION

That the changes proposed in items 1, 3 and 4 be approved.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

Streets (page 39) 4-35

Mr. Ray asked that item 321-construction materials budgeted for \$86,500 be reduced to \$77,900 since only \$8,600 would be expended during the present fiscal year under the new state law which permitted the start of the gas tax fund projects prior to the beginning of the fiscal year.

Due to utility problems in some of the streets, he reported, the total amount of \$17,000 approved by the Council for an early start on the street program could not be expended prior to the beginning of the year as planned, and only \$8,600 was used.

Mr. Ray reported that the department was requesting an additional heavy equipment operator and a laborer to keep up with the city's expanded operations which were included in account 110-regular salaries and wages.

Account 308 for tools, shop & field supplies--in the sum of \$3,875, Mr. Ray reported, was increased to purchase broom fiber for street sweeper. He recommended against stock-piling this material, as was previously done, due to lack of storage space, too much money invested and deterioration.

Proposed appropriation of \$950 for guard rail on Neece Drive was discussed. The City Manager indicated that more time would be taken to check out the matter and it could be discussed with the Traffic Department budget.

## MOTION

That account 321-construction materials be reduced from \$86,500 to \$77,900.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

Sewers (page 40) 4-115

No questions were raised.

Sewage disposal (page 41) 5-10

The City Manager noted a typographical error on item 223-mtc. & rep. bldgs. & grounds which should be corrected to read \$6,730 instead of \$5,730.

Questions raised on items 223, 224 and 504 (Holiday Detector) were cleared by Mr. Ray.

The City Manager reported that the maintenance of the entire plant was being stepped up. The City's large investment in the plant warrants the expenditure of adequate funds to maintain the equipment in first class condition.

Answering a question of Councilman Merrill, the City Manager reported that due to the primary election a conference had not yet been held with the County Committee on the use of the city's dumping area but arrangements would be made for the meeting shortly.

Mr. Ray reported that repairs to the city's chlorinator would be \$750 and that these repairs could not guarantee satisfactory operation unless a new water supply was brought in. An offer has been received for a new machine for the price of \$2030, plus tax and trade in. He recommended the purchase of a new machine at this time with bond funds.

RESOLUTION NO. 58-171

A RESOLUTION AUTHORIZING THE PURCHASE OF A CHLORINATOR FROM WALLACE & TIERNAN INC. FOR THE SUM OF \$2115.00 AND THAT COST BE CHARGED TO THE 1953 BOND FUND

Introduced by Merrill      Seconded by Robinson  
 Ayes: Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
 Nocs: None                      Absent: Adams, Arata, Mayor Marks

No other questions were raised on this section of the budget.

Service Division (page 50) 5-120

Item 330, gas, oil & lube--\$31,600, proposed increase was cleared by the City Manager.

Item 504 3 Wheel Haul-Master \$1,324, requested by the Traffic Engineer was discussed and cleared.

A short discussion was held on the method and security in the collection of coins from the parking meters.

Reserve appropriation item for \$45,971 was explained by the City Manager.

MOTION

That the Public Works budgets discussed be tentatively approved with the changes made, except reserving the curb rail on Neece Drive.

Moved by Merrill      Seconded by Robinson      Unanimously carried

Special gas tax street improvements (page 46)

These projects have been approved by memorandum of agreement with the state, the City Manager pointed out.

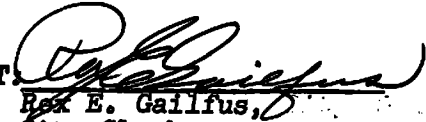
Mr. Bird pointed out that the two projects which were included in this budget, No. 76 and No. 78 would be completed this fiscal year and could be deducted from the budget by appropriation procedure at a later date.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned until 4:00 P.M.  
June 10, 1958.

Moved by Merrill      Seconded by Hammond      Unanimously carried

ATTEST   
Rex E. Gallus,  
City Clerk

The Council of the City of Modesto met in adjourned regular session this date at 4:00 P.M., having adjourned from the regular meeting of June 5, in the Council Chamber at the McHenry Public Library, 14th and I Streets, as provided by Section 2-1.01 of the Modesto Municipal Code, Mayor Marks presiding.

The Acting City Clerk called the roll and there were

Present: Councilmen Adams, Hammond, Spaulding and Mayor Marks  
Absent: Councilmen: Arata, Merrill and Robinson

Page 28- Parks and Recreation --Recreation Division

Director of Parks and Recreation Lloyd Lowrey answered a question of Councilman Adams--that the adult basketball and baseball leagues were still being operated on a self-sustaining basis and participation was increasing.

Account 503 -public address system: Replacement for an old system.

Account 504--two car heaters and defrosters: Proposed for service division cars not now equipped. Early morning operations during winter months makes it difficult to keep windshield clear. This equipment would be used more to avoid accidents than for heat for the driver.

Mr. Bird reported that in the past the softball field at the State Hospital had been maintained by extra help, a patient at the hospital who was placed on the city's payroll. It is now proposed by the hospital that the money accumulate and be used for improvements of the field. Recreation Supervisor Walts proposes that \$150 be transferred out of Account No. 120 for extra help and placed in Account No. 235--services, professional and others.

**NOTION**

That the sum of \$150 be transferred from Account No. 120 -extra help, to Account No. 235- services, professional and others

Moved by Spaulding      Seconded by Mayor Marks      Unanimously carried

Page 29-Parks and Recreation-Maddux Youth Center

Account 504 Trampoline--Mr. Lowrey reported that the use of this equipment would be under supervision by a member of the recreation staff.

No further questions were raised.

Page 30 Parks and Recreation-- Parks

Mr. Lowrey reported on the difficulties encountered in recruiting a professional landscape architect to assist in the backlog work of drafting plans for parks. He recommended that the city hire a full-time landscape architectural draftsman and discontinue the system of contracting for part time work. Five parks are now in the process of being designed and a new park site is being proposed in the Lahoma area. Revision of irrigation systems in various parks is needed.

The increase in personnel in this department during the past years was discussed.

Mr. Lowrey answered a question from Mayor Marks-- that once the fairway and greens are seeded at the Dryden Park Municipal Golf Course, it should be put into play as soon as possible because the same amount of maintenance would be necessary as if the course were in operation. He considered that the sooner the course was put in play the better it would be for all concerned. He estimated the annual maintenance and operation costs to be of the order of \$45,000 annually. The tentative schedule calls for seeding in the early spring of 1960 and the opening of the course by that summer.

Account 310- Gardening and horticultural supplies: Mr. Lowrey reported that due to the rainy season this year it had been impossible to spray the trees. Patented trees are now being purchased cheaper than they can be raised in the city's nursery. It is planned that only those trees which cannot be purchased in suitable quantities and condition, will be raised in the city's own nursery.

Account 218- Equipment rental charges: The increase is due to increased rental rates for new equipment, such as the new high ranger, which was not budgeted last year.

Mr. Bird reported on the operation of the equipment rental reserve fund. He stated that at the end of each fiscal year a balance sheet report was made on the equipment pool.

#### MOTION

That the supplemental request of \$8,292 be added to the budget.

Moved by Adams      Seconded by Hammond      Unanimously carried

#### Page 31- Modesto Community Service Center 3-35

Councilman Hammond commented that this building was supposed to be self sustaining and the budget indicated the income to be \$3,000 and expenses \$4500.

The City Manager reported that the Council Committee was assisting the staff in the preparation of a report on the building which would be presented shortly.

No other questions were raised.

#### Page 32- Parks and Recreation-- golf course 3-42

The City Manager reported that the staff was recommending an increase in individual monthly ticket rates from \$6 to \$7.50 and family monthly rate from \$7.50 to \$10, providing estimated revenue of \$2,500 annually.

Mr. Lowrey reported on his investigations of the rates charged by other golf courses. He considered that Modesto's ticket rates were too low and should be raised as recommended in the budget.

#### MOTION

That the City Attorney be instructed to prepare the necessary documents to increase the ticket rates as proposed in the budget.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

Mayor Marks commended Mr. Lowrey on the economical manner in which the 9 hole course was being operated.

#### Page 42- Parking and Traffic 3-70

Director of Parking and Traffic answered a question raised by City Attorney Grimes that this budget did not provide for the purchase of any street signs for posting in the central business district pro-

hibiting all night parking.

page 3

Further discussion was held on the proposed installation of a guard rail on Neece Drive which had been included in the Public Works Streets budget but held over to be cleared at the time the Traffic Department budget was considered.

Mr. Carmody stated that numerous people had gone over the bank at this location and it was proposed to construct a new guard rail.

#### MOTION

That item 503--guard rail on Neece Drive for \$950 remain in the Public Works-Streets, budget.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

The degree of legal liability of the city to protect the general public at this location was outlined by the City Attorney.

Duties of the personnel for this department were outlined by Mr. Carmody at the request of Councilman Hammond. He stated that this department assisted private companies and persons in planning off street parking facilities.

#### Page 47- Parking and Traffic (Parking fund) 4-92

Capital Outlay item 502--11th St. garage for \$76,457 was explained by Mr. Carmody.

No further questions were raised.

#### Page 45- Library 4-116

Account 503 air conditioning unit was explained by Librarian Hamilton, Account 240 for contractual services with the county was also reported on. No other questions were raised.

#### Page 48- McHenry Library Capital Outlay Fund 5-26

The City Manager reported that this program had been reviewed with the Planning Commission and the possible purchase by the library on an optional use basis, of a portion of the 15th Street city lot was considered. He read the following summary of a discussion held on February 10, by the Librarian, Planning personnel and himself:

"It was generally agreed that long range library development may proceed on any of these bases:

1. That the library will be located as a part of a cultural community activity center;
2. That it be located independently of other public buildings;
- 3- That it be located adjacent to administrative buildings such as the courthouse, city hall, etc.

If we are to proceed on the basis that Modesto is planning for and will some day have a cultural community activity center, or a civic center which includes cultural and community-type facilities, and if this is to be located in the central section of the city, then the library logically should be a part of this grouping. It therefore appears necessary to determine whether or not this city plans to work toward such a center. If the answer is yes, then we would strongly recommend that the library be made a part of it and that all library planning be directed toward that end. If the answer is no, then long-range library plans should be considered on the basis of either alternative 2 or 3."

"The high cost of land might make location of the library adjacent to the city hall and courthouse sites prohibitive.

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We would strongly urge that the scatteration of public buildings in this community not be continued, as a matter either of policy or lack of policy. If, however, the library location is to be determine independently of other buildings, then it might be:

1. At the present site;
2. On the 15th Street property already owned by the city;
3. At some other location.

It is generally considered to be good planning and administration to have the central library located in the central section of the city and not in the outlying areas, although it does not necessarily need to be in the highest value central business district."

"The present site is totally inadequate, and acquisition of the space required for proper future planning for the central library facility, including proper provision for parking, would be difficult and expensive. It would be not only poor planning but wasteful and extravagant in the long run to build or rebuild a library on a site which would prove inadequate within a short period of time."

"Much depends on the library program, and on decisions resulting from current discussion of the preliminary general plan. It is recommended, therefore, that no final decision be made on the library location until the major elements of the master plan have been reviewed and cleared. Mr. Hamilton believes it would be wise to take an option on the 15th Street site for potential library development, until general plan determinations have been made."

Mr. Miller reported that the city had an offer of \$25,000 on the property adjoining the library on 14th Street, which he believed was too high. Consideration might be given to the purchase of this property for some interim use such as parking.

The City Attorney was asked to check out the grant deeds on the present library to determine if there were any reversion provisions that the property revert to the heirs if not used for library purposes.

Mr. Hamilton answered a question from Mayor Marks--that if there was a priority, the branch libraries should be placed first on the list. Mayor Marks pointed out that the Council had already gone on record in favor of a cultural civic center and that a library could logically be a part of this center. Mr. Hamilton stated that the library should be a part of a civic center if it was close to the central part of the community.

The City Manager pointed out that the master plan and the central business study, already approved, would answer many of the questions on the location of the library. The Council should consider whether it should press for the purchase of the property next to the library or buy a portion of the 15th street site to be held until plans are clear.

Page 49- Bond Redemption and Interest requirements and page 51, Airport Development Fund: were noted by the Council and no questions raised.

Page 20- Planning 6-10

Mr. Bird reported that the Planning Department budget, (Item 240 contractual services) should be changed to \$5,000 since the city cannot enter into an agreement with the state by June 30.

MOTION

That the budgets considered at this meeting be tentatively approved

Moved by Hammond      Seconded by Adams      Unanimously carried  
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The City Manager reported that reports on the supplemental requests of the Police and Planning Departments would be filed with the Council shortly.

Page 39- Public Works--Streets 6-38

Mr. Bird stated that at the present time this department was dumping garbage refuse at the sanitary land fill area and there would be a carry-over into next year's budget of \$1,730. for dumping fees. Account 235- Services, professional should be added to this budget for this amount.

MOTION

That a new item (No. 235) in the sum of \$1,730 be added to the Public Works-Streets budget, and the totals be adjusted accordingly.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

The City Attorney noted that copies of his report on a supplemental request for an Assistant City Attorney in his office had been distributed to the Council members. It was agreed by the Council that consideration should be held over until more of the members were present.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 5:35 P.M.

ATTEST:   
Assistant City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Merrill, Spaulding, Robinson, Mayor Marks

Absent: Councilmen: Arata, Hammond

Councilman Arata arrived at 7:38 P.M.

The pledge of allegiance to the flag was given by those present.

Rev. Kaare Moe of the Central Baptist Church gave the invocation.

Mayor Marks welcomed the visitors to the Council meeting.

Mayor Marks congratulated City Manager Miller on his seventh anniversary as City Manager of Modesto.

LETTER AND COPY OF APPLICATION TO PUBLIC UTILITIES COMMISSION FOR INCREASE IN RATES FILED BY DEL ESTE WATER COMPANY 1-43

Provisions of the application were briefed by the City Manager. No action was taken by the Council.

LETTER FROM STANISLAUS COUNTY BRANCH OF THE SAN FRANCISCO CONSERVATORY OF MUSIC 1-70

The City Manager briefed the letter from the organization requesting permission to rent a portion of the Modesto Community Service Center during the month of August to hold classes for children in music, dance and French, at a monthly rental of \$75.

Director of Parks and Recreation Lowrey submitted a report recommending approval.

RESOLUTION NO. 58-172

A RESOLUTION APPROVING RENTAL OF PORTION OF MODESTO COMMUNITY SERVICE CENTER TO THE STANISLAUS COUNTY BRANCH OF THE SAN FRANCISCO CONSERVATORY OF MUSIC FOR THE MONTH OF AUGUST, 1958

Introduced by Arata      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                  Absent: Hammond

LETTER FROM JIM FRAZIER REQUESTING A VARIANCE TO LEAVE A POLE SIGN AT 1324 TENTH STREET 1-95

A letter from Jim Frazier requesting a variance to leave a cylindrical aluminum tube sign already installed remain at 1324 Tenth Street, which did not conform with the regulations of the Modesto Municipal Code.

Director of Public Works Ray reported that the pole sign was erected without a permit. Upon discovery of the sign, it was requested that an engineer inspect it for structural design. After this was done a permit was issued by the city with the requirement that the sign be cut down to the 35 height limitation and that the limitation restriction of two feet back

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from the curb line be met. This was not done and the permit was revoked by Chief Building Inspector Hermida on April 3, 1958.

Mr. Frazier, who was present, contended that the remodeling of the sign would depreciate its effectiveness.

#### MOTION

That the staff take additional time to check out some arrangements with Mr. Frazier so that the sign would meet the Code regulations.

Moved by Robinson      Seconded by Merrill      Unanimously carried

#### CONSIDERATION OF NO PARKING ON PORTION OF JONES AND GRANT STREETS 2-47

Mayor Marks noted that the Council members had received copies of the report of Director of Parking and Traffic Carmody on the "no parking zones on Grant and Jones Streets", dated June 10.

A letter received from Charles V. Duncan, lessee of rooms in the Stark Building located on McHenry Avenue, opposing the no parking zones on the two streets was read. The City Manager stated that in view of some of the statements in the letter that he had called the writer and asked him to be present. Mr. Duncan was not present.

A copy of the letter which had been sent to all the residents in the area outlining the result of the poll taken on May 13 on the no parking zones temporarily established on these streets, was read.

Mr. Carmody reported on the temporary parking restrictions as follows:

- 1- No parking on the south side of Grant Street;
- 2- Two spaces eliminated on the north side of Grant Street;
- 3- Two spaces eliminated on the north side of Jones;
- 4- Seven spaces eliminated on the south side of Jones Street.

After receiving a request about 2 months previously from a resident on Jones Street to eliminate parking because of the narrow street, the staff investigated the area. Jones Street is 30 feet between curbs and Grant Street 24 feet. Both streets are too narrow for parking on both sides and two way traffic. An opinion poll of residents conducted at this time favored the possible elimination of parking on one side of Grant Street but opposed the elimination on Jones Street. The lessees in the Stark Building were opposed to the elimination, so the modified plan was instituted on a trial basis. A month later another poll was taken, the results of which are listed in the letter sent to the residents by Mr. Carmody on June 9.

His opinion was that since the streets were too narrow for two way traffic, and one-way traffic would not be desirable, as it would force traffic onto McHenry Avenue, the present restrictions should be made permanent. He pointed out that there was no continuous parking problem in the area, and that off street parking on nearby land could be developed to accommodate customers of lessees in the Stark Building. The only modification he suggested was that the no parking zone on the south side of Jones be reduced from 160 feet to 50 feet.

Mayor Marks asked if anyone from the audience wished to comment on the subject.

The following persons spoke in opposition to the present parking restriction:

L. D. Scanlon, renter at 138 Grant Street,  
 Joseph McConnell, owner of house at 138 Grant Street  
 A. M. Garcia, 132 Grant Street,  
 Bill Kline, 131 Grant Street,  
 E. V. Ayres, 135 Grant Street,  
 Vernon Thompson, 122 Jones Street.

The basis of their opposition was 1) that the elimination of parking permitted cars to travel faster creating a hazard to the children playing in the area and to pedestrians crossing the streets, 2) the prohibition of parking depreciated the value of their property and created an inconvenience.

Jack Broughton, 115 Downey Avenue, considered that the area was not properly zoned and that since there was available vacant property in the area, arrangements could be made by Dr. Stark to provide off-street parking facility.

Dr. Stark, owner, and Dr. Lyle Spellman, lessee of the Stark building, spoke in opposition to the restricted parking. They contended that parking was not a problem in the area until the new regulations were established. Dr. Spellman suggested that the restricted parking be moved to the north side of Grant since there were more available parking spaces on the south side as only two houses faced this side of the street and eight on the north side.

Mrs. Lois Parks spoke in favor of the temporary parking.

The Council members felt further time should be taken on the final decision and several members indicated they wished to make a personal inspection.

The City Manager stated that, if desired, more time could be taken to inspect the area and to study the effectiveness of the restricted parking.

#### MOTION

That the matter be held over for a period of two weeks.

Moved by Arata      Seconded by Robinson      Unanimously carried

#### MOTION

That the matter be placed on the agenda for the Council meeting of June 25 at 7:45 P.M.

Moved by Arata      Seconded by Merrill      Unanimously carried

#### HEARING ON PRELIMINARY BUDGET FOR FISCAL YEAR 1958-59 6-30

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the public hearing on the proposed budget for the City of Modesto for the fiscal year 1958-59.

Affidavit of publication of the notice of the hearing in the Modesto Bee, the City's official newspaper in the manner prescribed by law, was noted.

The City Manager pointed out for the record that the Council had held a number of meetings on the budget, and that each budget had been reviewed in detail and cleared tentatively. The capital program, supplementary requests on personnel of the Planning, Police and City Attorney departments remain to be cleared. Additional reports will be submitted on these.

Mayor Marks asked if anyone in the audience wished to make <sup>any</sup> comments on the budget. No comments were made.

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The City Attorney noted that copies of his report dated June 6, on the subject "Request for authorization of an Assistant City Attorney", had been previously distributed to the Council members. He filed a copy of the report at this time with the City Clerk to be placed with the records of this meeting.

He briefed the highlights of the report and answered questions raised by the Council on the following matters:

- 1- Lack of available office space for an Assistant City Attorney;
- 2- The cost of contractual assistance is almost as much as would be paid to an Assistant City Attorney;
- 3- That if the City Attorney was pressed with work it would be necessary to ask the Council for additional funds for legal assistance;
- 4- That if condemnation proceedings were necessary for the McHenry Avenue widening project it might be better to hire outside legal assistance;
- 5- When assistants are once hired it is difficult to reduce the staff later;
- 6- That the purported business recession had not so far had any effect on the amount of work done by the City Attorney
- 7- When the contractual costs increase to the approximate cost for an Assistant City Attorney consideration should be given to the request for additional legal assistance.

MOTION

That the supplemental request of the City Attorney be denied.

Moved by Arata      Seconded by Merrill      Unanimously carried

MOTION

That the public hearing on the budget be continued until 4:30 P.M. on June 18, 1958.

Moved by Merrill      Seconded by Arata      Unanimously carried

REPORT ON PROJECT PROVIDING FOR EXTENSION OF CARPENTER ROAD 7-97

Mr. Ray reported on the county proposal to extend Carpenter Road north ward across City owned land. This would require a slight change in one of the city's levees which would become a part of the road construction. The total area involved would be 3.6 acres.

The City Manager pointed out that the general location had previously been tentatively approved by the Council and Planning Commission. He recommended that the Council indicate its approval and take the necessary legal action to make the right of way available to the county. Cost for the re-location of the levee will be assumed by the county, he pointed out.

MOTION

That the staff be authorized to write a letter to the County Board of Supervisors indicating the approval of the location of

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the Carpenter Road extension and intention to make available the necessary rights of way.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

AUTHORIZE WATER LINE INSTALLATION IN WESTLAND MANOR NO. 2 ADDITION BY CITY FORCES 8-10

Mr. Ray reported that no bids had been received at the scheduled time on the installation of water lines in Westland Manor No. 2 Subdivision and recommended that the work be done by city forces. He estimated the cost to be \$1,772.

RESOLUTION NO. 58-173

A RESOLUTION AUTHORIZING THE INSTALLATION OF WATER LINES IN WESTLAND MANOR NO. 2 SUBDIVISION BY CITY FORCES

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Hammond

VARIANCE REQUEST FILED BY MODESTO LODGE NO. 1282 BPOE

A request was filed by the Modesto Lodge No. 1282, BPOE for a variance from the Municipal Code regulations to permit the patching and repairing of chuck holes in the apron between a parking lot and Fairmont Avenue, at its clubrooms located at 945 McHenry Avenue.

MOTION

That the time of 5:00 P.M., June 18 be set as the time to consider the request for a variance from the Municipal Code regulations.

Moved by Merrill      Seconded by Robinson      Unanimously carried

LETTER FROM ATTORNEY GEORGE MELLIS RE: BURNING AT THE MUNICIPAL DUMPING AREA AT THE AIRPORT 8-30

A letter from George Mellis, attorney for Mr. and Mrs. Paul Evey and Dr. and Mrs. Kenneth Hill protesting to the burning of rubbish by the city on the airport property located across the river from the residences of his clients, was read.

The City Manager reported that Mr. Ray had contacted Mr. Mellis by phone and advised him of the action being taken by the city to relieve this situation. Mayor Marks recommended that a letter be written setting forth the statement made orally over the phone so that it could be a matter of record.

MOTION

That the staff be authorized to transmit a letter to Attorney Mellis outlining the action already taken and contemplated action to relieve this situation.

Moved by Arata      Seconded by Spaulding      Unanimously carried

PETITION FROM CALIFORNIA AVENUE RESIDENTS REQUESTING ESTABLISHMENT OF ONE WAY TRAFFIC ON PORTION OF THIS STREET 8-45

A petition signed by 33 residents of California Avenue requesting that one way west traffic be established on the first easterly block of California to help solve the heavy traffic condition around the Modesto High School was noted by the Council.

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Mr. Carmody reported on the meeting held with residents and members of the West Modesto Committee on June 10. The majority of the people on the committee favored the establishment of one-way street. Chairman John Feltes was opposed and asked that it be held over until he could be present at the Council meeting to present both the majority and minority reports.

## MOTION

That the matter be placed on the agenda for June 25 for Council decision at 8:15 P.M.

Moved by Arata      Seconded by Robinson      Unanimously carried

LETTER FROM EVERETT TURNER REQUESTING VARIANCE FROM THE MUNICIPAL CODE TO PERMIT A BRICK SIDEWALK ALREADY INSTALLED REMAIN AT HIS RESIDENCE LOCATED AT 1010 BRADY AVENUE 8-60

The letter was read and as he did not waive the 5 day period established by the Modesto Municipal Code, the City Manager pointed out, it would be necessary to set a date for a hearing.

## MOTION

That an informal hearing be set for 5:05 P.M. June 18 and that the staff submit a report to the Council members prior to this date.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

ORDINANCE APPROVING LEASE WITH VETERANS OF FOREIGN WARS FOR JUNIOR RIFLE RANGE 8-92

## ORDINANCE NO. 243-C.S. entitled

"AN ORDINANCE APPROVING THE LEASING OF CERTAIN REAL PROPERTY TO THE VETERANS OF FOREIGN WARS OF THE UNITED STATES, MODESTO POST 3199, A CORPORATION FOR A JUNIOR RIFLE RANGE AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH"

was introduced and ordered printed and published as required by the Charter.

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Hammond

ORDINANCE RELATING TO ADMINISTRATIVE DEPARTMENTS 8-120

## ORDINANCE NO. 244-C.S. entitled

"AN ORDINANCE AMENDING CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO ADMINISTRATIVE DEPARTMENTS, AND ADDING ARTICLE 4 TO CHAPTER 4 OF TITLE II OF SAID CODE RELATING TO THE REIMBURSEMENT OF EXPENSES INCURRED BY OFFICERS AND EMPLOYEES OF THE CITY IN PERFORMANCE OF THEIR OFFICIAL DUTIES, AND REPEALING ARTICLE 2 AND ARTICLE 3 OF CHAPTER 3 OF TITLE II OF SAID CODE"

was introduced and ordered printed and published as required by the Charter.

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Hammond

ORDINANCE AMENDING CODE RELATING TO TAXICAB DRIVER'S FEES 8-122

## ORDINANCE NO. 245-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-6.702 OF ARTICLE 7 OF CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICABS"

was introduced and ordered printed and published as required by the Charter.

Introduced by Adams      Seconded by Spaulding  
 Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond

REPORT ON LETTER FROM SEARS ROEBUCK COMPANY RE: PARKING LOTS 9-6

The City Manager noted that copies of the City Attorney's opinion on an inquiry filed by Sears Roebuck Company, as to whether the addition of the parking lot leased by the city from Bomberger Brothers located on the west side of 11th Street between K and L to the present Sears parking lot would be considered as "frozen" for parking lot purposes under the current parking regulations, had been sent out previously to each Council member.

The City Manager pointed out that when people who provide parking voluntarily in connections with buildings, it is not a "frozen" requirement. The property can be used for this purpose temporarily and then put to other uses.

MOTION

That the City Clerk be authorized to send a letter to Sears Roebuck Company that the City Attorney's opinion reflects the intent of the Council in adopting regulations relating to parking.

Moved by Merrill      Seconded by Adams      Unanimously carried

DISCUSS APPOINTMENTS TO BOARDS AND COMMISSIONS 9-32

Councilman Adams pointed out the increasing difficulty in obtaining qualified technical members for both the Board of Plumbing Examiners and Board of Electrician Examiners due to the opinion rendered on prohibited interests. He suggested that a study be made as soon as possible on some alternate plan for appointing members in order not to delay the examinations.

The City Attorney suggested the possibility of adopting legislation which would create an advisory committee rather than a board. As such the members would not be officers of the city and would not come under the rule. These committees could still advise the city staff in the preparation and giving of examinations, and act as a liaison agency in the examining process.

The City Manager stated a report would be submitted shortly.

APPOINTMENT OF CECIL JONES AS MEMBER OF THE BOARD OF ZONING ADJUSTMENT 9-75

A letter from the Modesto City Planning Commission was read recommending the appointment of its member, Cecil Jones as a member of the Board of Zoning Adjustment, to replace Dr. T. M. Spaulding, whose term expired on Jan. 1, 1961.

RESOLUTION NO. 58-174

A RESOLUTION APPOINTING CECIL JONES A MEMBER OF THE MODESTO CITY BOARD OF ZONING ADJUSTMENT

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond

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ACCEPT EIGHTH STREET PARKING LOT IMPROVEMENT FROM STANDARD MATERIALS INC.,  
AUTHORIZE PAYMENTS DUE AND RECORDATION OF NOTICE OF COMPLETION 9-93

The Traffic Engineer reported that the improvements of the Eighth Street parking lot had been completed, in accordance with the contract, by Standard Materials, Inc. and recommended its acceptance.

RESOLUTION NO. 58-175

A RESOLUTION ACCEPTING THE CONSTRUCTION OF 8TH AND K STREET PARKING LOT BY STANDARD MATERIALS, INC., AUTHORIZING FINAL PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                  Absent: Hammond

Mr. Carmody reported that the use of the lot was increasing daily. Councilman Arata suggested that a sign be erected on the 8th Street side of the lot setting forth the 20¢ daily rate. Mr. Carmody stated this could be done if funds were available in the project and if not he would report to the Council and request additional funds.

REPORT ON STREET IMPROVEMENT IN THE GARRISON ADDITION 9-112

As requested by the Council, Mr. Ray reported on the results of the poll of the property owners in the Teresa Street area on the possible improvement of the area. These persons were checked on curb and gutter improvements, no improvements or curbs and gutters and paving. 57% of the cards were returned, indicating as follows:

Glenwood Drive---60% in favor of some improvement in one block and not another  
Pearl Street-----62% in favor of some improvement--mostly curb and gutter only  
Del Vale Avenue--33% in favor of some improvement  
Kearney Street---80% in favor of some improvement  
Teresa Street----(petition already filed for paving of street and curb and gutter)  
Tebbutt Avenue---none in favor of improvement

Mr. Ray recommended that the assessment district in this area be enlarged to include, beside Teresa Street, one block on Glenwood (which is just a half street in width), Kearney and Pearl, and that DelVale, Tebbutt and one block on Glenwood be left out. Only curbs and gutters will be installed on streets, other than Teresa Street, because of necessity to construct storm drains in the future.

MOTION

That the staff proceed with the necessary action to establish a special improvement district for the paving of Teresa Street, installation of curbs and gutters on Glenwood Drive adjoining Block 6112, on Kearney Avenue and Pearl Avenue.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

The City Attorney reported that this would also authorize the preparation of agreement with the city's special bond counsel.

FURTHER REPORT ON INSTALLATION OF CURBS, GUTTERS AND SIDEWALKS ON SYCAMORE BETWEEN ORANGEBURG AND ROSEBURG 10-31

Mr. Ray filed a report on the staff's investigation and action on the complaint filed by a resident on Sycamore Avenue between Roseburg and Orangeburg that a few property owners had not installed curbs and gutters and sidewalks, a copy of which report is on file with the records of this meeting.

He reported that one property owner, who has curb and gutter, contends she cannot afford to install sidewalks and that her property is up for sale. Three of the property owners located on the west side of the street, who have not yet installed the improvements, have advised that they have made arrangements to do so. He recommended that these owners be given two weeks to proceed with the work. He asked for Council guidance on the manner to proceed on compelling the one remaining property owner to install sidewalks. State law regulations were discussed and the staff was asked to make a check on the possibility of placing the costs on the tax roll and report back to the Council.

The Council indicated its intention to compel all property owners to complete the improvements.

**MOTION**

That the three other property owners who had not installed the improvements be advised that they must be started by June 30, 1958.

Moved by Merrill      Seconded by Arata      Unanimously carried

REPORT ON INSTALLATION OF CURBS AND GUTTERS IN JOHN MUIR PARK 10-97

The City Manager reported the staff had sent letters to 10 property owners in the John Muir Park Tract who do not have curbs and gutters on May 5, advising of the provisions of the State Street and Highway Code regarding the requirement of certain improvements when the majority of owners have previously provided those improvements. A survey on June 9 indicates that none of the affected property owners have made the improvements. Funds have been included in the Capital Improvement Budget of the Parks and Recreation Department to curb and gutter the small park within this area, he stated.

**MOTION**

That the staff be authorized to notify the affected persons that funds were budgeted for the curb and gutter for the Ashby Park and the budget would be cleared within two weeks and ask them to join in with the city to make the improvements complete.

Moved by Arata      Seconded by Robinson      Unanimously carried

REPORT ON LETTER FROM W. C. ZECKOS REGARDING EXTENSION OF NOTRE DAME AVENUE 10-110

The City Attorney reported that Mr. Zechos and John Quaresma had agreed to dedicate rights of way to extend Notre Dame to Roseburg Avenue, curb and gutter both sides of the street on the understanding that the city would, under its current policy, agree to oil the street. The Council indicated its approval for the City Attorney to proceed on this basis.

REPORT ON McHENRY AVENUE RIGHT OF WAY ACQUISITION 10-124

The City Manager noted that he had previously distributed a general report to the Council members on the project, which included a summary of progress. Allen Odell, representative of the American Right of Way and Appraisal Company was introduced.

The total number of documents to be acquired is 338, of which 260 have been acquired to date. 90 parcels are completely cleared, with others partially cleared.

The City Manager outlined the city's policy and contract with the State on acquiring the rights of way--that the owners will dedicate the right of way, the city will assume acquisition costs, including damages to improvements, etc, city to prepare storm drain plans, which are already in the hands of the state. The state will prepare the plans for widening the highway, construct the highways with curbs and gutters into a 4 lane arterial street and build... the storm drainage. The City will then assume the responsibility for maintenance of the storm drain. The City has now reached the "point of no return" and should proceed on the basis that the balance of the rights of ways will be cleared by whatever action is required and that the project will be built.

The City Manager reported that the state has advised that if all rights of way can be cleared later in the summer that the project could go to bid this year. He reported that he would appear before the State Highway Commission shortly to clear the matter of appropriation of funds in next year's budget which is usually accomplished during the fall months. The Council approved this procedure.

The City Manager reported that the city's expenditures and encumbered sums for the project up to June 1, 1958, totalled \$38,910.08. Two parcels have been cleared up to the point of damages to be paid, Tidewater Associated Station on McHenry and Granger Avenues, estimated at \$805 and McHenry Avenue Market, owned by Olive Dennett, where the front of the store building must be cut off, estimated cost \$9,700. He reported on damage costs on other properties which had not yet been cleared.

The City Manager suggested that the staff present a specific schedule for action to get all of the rights of way cleared as promptly as possible. If the Council agrees it should be made clear to all property owners involved that this project will be cleared and if there are a final few where a condemnation action must be instituted, the improvements to be provided will far outweigh the severance damages.

Councilman Arata stated since the project had progressed so far and means so much for the city as it will start the storm drainage program for the northern area, and the city has already expended considerable sums, it cannot be stopped but must proceed as fast as possible.

## MOTION

That the staff be authorized to proceed on the basis that the Council intends to take whatever action is necessary to clear this project and complete the project as soon as possible.

Moved by Arata      Seconded by Merrill      Unanimously carried

The City Attorney stated that he was personally convinced that because under the rule of law the benefits may be off-setting the severance damages and because there is a set back ordinance which prevents building on the front part of the lots abutting McHenry Avenue, that when the cost of

appraisers, attorney's fees, defense of the litigation is taken into consideration, it makes defense of the condemnation proceedings uneconomic. Condemnation, if necessary, will only hold up the project to the extent of adoption of necessary legal documents since the law permits the city to take immediate possession upon putting up a deposit in court.

The City Manager stated that the staff was convinced that 1) everyone on the street is going to get far more benefit than any value of right of way required; 2) it would be uneconomical for them to go to court. The property owners will be given every opportunity to work out their problems without any cost to them, he stated.

#### MOTION

That the staff be authorized to proceed with Tidewater Associated Oil Company on the basis of the \$805 damage costs, and to work out all the details necessary.

Moved by Adams. Seconded by Robinson Unanimously carried

#### RESOLUTION NO. 58-176

**A RESOLUTION APPROVING THE RIGHT OF WAY CONTRACT BETWEEN THE CITY OF MODESTO AND OLIVE M. DENNETT FOR WIDENING OF MOHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACT ON BEHALF OF THE CITY**

Introduced by Merrill Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Nays: None Absent: Hammond

Terms of the contract calling for the payment of \$9700 by the city were outlined by the City Manager. It was pointed out that the owner was paying part of the cost of reconstruction of the store front.

#### **REPORT ON POSSIBLE USE OF FEDERAL FUNDS AVAILABLE FOR ENGINEERING ON STORM DRAINAGE, STREETS, ETC. 12-37**

The City Manager reported that Mr. Ray had met with John F. Lamb of the U. S. Housing & Home Finance Agency, who had advised that there were federal funds available for planning and studies of certain kinds of projects which can be advanced to the city and repaid after the project is constructed, such as streets, storm drainage and the incinerator. If the projects do not materialize the city is not required to repay the money. He recommended that the city take some action as soon as possible to get some of these projects underway.

#### MOTION

That the staff be authorized to proceed on this basis.

Moved by Adams. Seconded by Robinson Unanimously carried

#### **GRANT REQUEST FOR VARIANCE FROM CURB CUT REGULATIONS OF THE MODESTO MUNICIPAL CODE 12-60**

A letter from Rudy DeKleva, owner of the J. S. West Ice Service, was read, requesting a variance from the curb cut regulations of the Modesto Municipal Code to permit the removal of 10 feet of curbing to add to existing driveway located at 711 8th Street, and waiving the written 5 day notice.

#### RESOLUTION NO. 58-177

**A RESOLUTION GRANTING VARIANCE FROM CURB CUT REGULATIONS OF THE MODESTO**

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MUNICIPAL CODE TO RUDY DEKLEVA TO EXTEND AN EXISTING 20' DRIVEWAY TEN FEET AT 711 8TH STREET

Introduced by Arata      Seconded by Merrill  
 Ayes: Arata, Adams, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: Hammond

APPROVE LEASE WITH JIM KINDLE FOR LEASE OF CITY PROPERTY AT 1737 MCHENRY AVENUE 12-70

RESOLUTION NO. 58-178

A RESOLUTION APPROVING LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND JIM AND ETTIE KINDLE FOR LEASE OF RESIDENTIAL PROPERTY KNOWN AS THE SNEDIGAR PROPERTY, 1737 MCHENRY AVENUE IN THE CITY OF MODESTO

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Hammond

APPROVE LETTER TO BE SENT TO BOARD OF SUPERVISORS RE: ZONING 12-75

The City Manager, pursuant to Council direction, presented a proposed resolution for transmittal to the County Board of Supervisors in line with the recommendation of the Planning Commission, requesting that generally the "line be held" on agricultural zoning adjacent to the city limits. He suggested that the Council consider the transmittal of a letter instead of the resolution, and submitted a proposed letter.

MOTION

That the letter be sent to the County Board of Supervisors and a copy transmitted to each member of the Board.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

REPORT ON STATUS OF PROPERTY FOR SALE NEXT TO THE MCHENRY LIBRARY 12-107

The City Manager was asked to send copies of his written report on library locations and purchase of proposals for library to those members of the Council who had not attended the adjourned regular meeting of June 10.

REPORT OF PROCEDURE IN THE FINANCE DEPARTMENT ON THE INSTITUTION OF NEW BUSINESS LICENSE ORDINANCE 12-113

Copies of a written report were distributed to the members.

The City Manager pointed out that two problems had arisen in the institution of the new ordinance, 1) the requirement that the merchants come into the office to fill out the license application; 2) the requirement that the merchant <sup>must</sup> swear before the Director of Finance or other authorized person on his quarterly mill license report. He suggested that these regulations be simplified so that it would not be required on the present formal basis and presented a proposed amendment to accomplish this.

ORDINANCE NO. 236-C.S. entitled

"AN ORDINANCE AMENDING SECTION 6-1.108 OF TITLE VI OF CHAPTER I OF THE MODESTO MUNICIPAL CODE RELATING TO APPLICATIONS FOR A BUSINESS LICENSE"

was introduced and ordered printed and published as required by the Charter.

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Hammond

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APPROVE USING ASSISTANCE OF REALTY BOARD IN RENTAL OF CITY BUILDINGS 13-20

## MOTION

That the city use the services of the Modesto Realty Board in the rental of city owned buildings, paying the usual commission when in the staffs judgment it would be advisable.

Moved by Adams      Seconded by Spaulding      Unanimously carried

REPORT ON MEETING WITH COUNTY COMMITTEE ON GARAGE DISPOSAL 13-80

The City Manager reported that the City Council Garbage Committee was unable to meet with the county committee after arrangements had been made but two board members and the Mayor and Vice Mayor had met with some of the City staff. The County hopes to be able to use its own garbage dump within a month and sooner if possible.

REPORT ON REHABILITATION OF PUMP STATION NO. 8 13-95

The City Manager read a report prepared by the Director of Public Works which indicated that the work had been done by city forces at a very favorable cost of \$995.

PROGRESS REPORT ON SALE OF CITY HALL BONDS 13-113

The City Manager reported that it was planned to go to sale on these bonds early in July. Resolution setting the formal date will be up for Council consideration at the next Council meeting.

FINANCIAL STATEMENT FOR CITY FOR MONTH OF MAY 1958 FILED

The City Manager distributed copies of the report to the Council members.

CLEAR PROPOSAL FOR ANNUAL REPORT 12-120

The City Manager outlined a proposal for a one page annual report, because of time limitations.

CONSIDERATION OF APPOINTMENT OF MEMBER TO PLANNING COMMISSION 14-06

Mayor Marks recessed the Council meeting at 10:50 P.M. so that the Council could meet in executive session to consider an appointment to the existing vacancy on the Modesto City Planning Commission.

Mayor Marks reconvened the Council meeting at 11:00 P.M.

## RESOLUTION NO. 58-179

A RESOLUTION APPOINTING JACK GARRETT A MEMBER OF THE MODESTO CITY PLANNING COMMISSION

Introduced by Robinson      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Hammond

ADJOURNMENT

## MOTION

That the Council meeting now in session be adjourned.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 11:00 P.M.

ATTEST: 

City Clerk

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The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Hammond, Robinson, Spaulding, Mayor Marks

Absent: Councilmen: Adams, Arata, Merrill

Councilman Adams arrived at the meeting at 4:05 P.M., and Councilmen Arata and Merrill arrived at 4:10 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. James Burer gave the invocation.

#### APPROVAL OF COUNCIL MINUTES

Council members having received copies of the minutes of the regular meeting of June 4, adjourned meetings of June 5 and 10, and the same being available for public inspection and there being no objections, the minutes were approved.

#### INVITATION TO ATTEND GOVERNOR'S INDUSTRIAL SAFETY CONFERENCE

The letter was briefed by City Manager Miller.

#### LETTER FROM FOURTH OF JULY COMMITTEE 1-38

The letter was read requesting permission to

- 1- Barricade I Street between 11th and 12th Street from 9:30 A.M. through 3:30 P.M.;
- 2- Use the city's reviewing stand with a canvas top, to be placed on I Street, close to the cannon in the Courthouse Park by City personnel on Thursday, July 3;
- 3- Use a public address system at the reviewing stand;
- 4- Use the City Ball Park the evening of July 4th for entertainment and fireworks subject to suggestions previously discussed by Parade Chairman Cal Purviance and Assistant City Manager Masonheimer. The city to supply a stand-by fire truck (along with the county). The American Legion to furnish personnel for patrol and added protection;
- 5- That the parade route be the same as last year.

The City Manager noted that immediately after last year's celebration, the department heads concerned had submitted reports on the problems involved. This information had been sent to the Council. Two of the problems are, 1) damage to the golf course, which cannot be avoided entirely but minimized by proper control, and 2) the fire problem caused by display of fireworks at Del Webb Field. He reported on plans for minimizing the fire hazards. He pointed out that if the wind was "right and reasonable", the hazard would be substantially lessened but if it was wrong it would be impossible to display the fireworks. These known limitations and reservations should be considered in the approval of the use of the Field, he stated. He pointed out that the parade route might have to be changed due to the one-way street system but it could be worked out by the Police and Traffic Departments.

Councilman Merrill suggested that the city consider acquiring existing sub-standard buildings located near the north-west section of the ball park to be used for park or parking purposes.

## MOTION

That the staff investigate and report on the use which could be made of the property for parks or parking purposes.

Moved by Merrill      Seconded by Adams      Unanimously carried

The City Manager reported that studies were being made on the use of possible excess land in the Dryden Park Municipal Golf Course and a report would be submitted later.

## RESOLUTION NO. 58-180

A RESOLUTION APPROVING REQUESTS OF THE FOURTH OF JULY COMMITTEE FOR THE CELEBRATION TO BE HELD IN THE CITY OF MODESTO

Introduced by Adams      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

LETTER FROM VETERANS OF FOREIGN WARS REQUESTING USE OF PARKING LOTS DURING FOURTH OF JULY CELEBRATION 2-20

A letter from the Veterans of Foreign Wars was read requesting permission to use a portion of the city's parking lot at 12th and I Streets for a concession stand during the Fourth of July celebration.

The City Manager briefed the action taken by the Council last year on the use of city property for concession stands.

## MOTION

That the staff be authorized to process all requests filed by charitable or non-profit groups to place concession stands on city parking lots, not to exceed three public parking lots on the parade route, on a first-come, first-served basis, providing they hold the city harmless; make their own arrangements for electricity; understand that the food sold must be inspected; that the area be cleaned up properly and all materials removed by 10:00 P.M. of July 4, 1958.

Moved by Robinson      Seconded by Adams      Unanimously carried

ACCEPT BID OF INDUSTRIAL ELECTRICAL COMPANY FOR LAMPS 2-60

## RESOLUTION NO. 58-181

A RESOLUTION ACCEPTING THE BID OF INDUSTRIAL ELECTRICAL COMPANY FOR FURNISHING LAMPS FOR MUNICIPAL LIGHTING FOR FISCAL YEAR 1958-59

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

ACCEPT BID OF THE MODESTO BEE FOR OFFICIAL ADVERTISING FOR FISCAL YEAR 2-70

## RESOLUTION NO. 58-182

A RESOLUTION ACCEPTING THE BID OF THE MODESTO BEE FOR OFFICIAL ADVERTISING FOR FISCAL YEAR 1958-59

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Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

The City Manager noted for the record that only one bid had been received for this work.

**AWARD BIDS FOR PIPE, FITTINGS AND VALVES FOR USE AT DRYDEN PARK MUNICIPAL GOLF COURSE 2-76**

Copies of the tabulation of the bids received for pipe, fittings and valves for the Dryden Park Municipal Golf Course, which had been opened at 2 P.M., Monday, June 16, were distributed for Council consideration. Director of Public Works Ray recommended that the offer of \$16,168.71, (items 1 through 4) of Slakey Brothers be accepted as the lowest firm bid conforming to the specifications; the low offer of \$697.41 on fittings (items 5 through 44) submitted by Western Plumbing Supply Company be accepted; and that the low offer of \$2,865.87 submitted by J. Greenberg & Co, for items 45 and 46, be accepted.

**RESOLUTION NO. 58-183**

**A RESOLUTION ACCEPTING THE BID OF SLAKEY BROS. FOR FURNISHING PIPE, FITTINGS AND VALVES FOR USE AT DRYDEN PARK MUNICIPAL GOLF COURSE**

Introduced by Hammond      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**RESOLUTION NO. 58-184**

**A RESOLUTION ACCEPTING THE BID OF WESTERN PLUMBING SUPPLY COMPANY FOR THE FURNISHING OF PIPE, VALVES AND FITTINGS FOR USE AT DRYDEN PARK MUNICIPAL GOLF COURSE**

Introduced by Hammond      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**RESOLUTION NO. 58-185**

**A RESOLUTION ACCEPTING THE BID OF J. GREENBERG & CO. IN THE SUM OF \$2,865.87 FOR FURNISHING PIPE, FITTINGS AND QUICK COUPLER VALVES FOR DRYDEN PARK MUNICIPAL GOLF COURSE**

Introduced by Arata      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

**CONTINUED HEARING ON THE BUDGET FOR FISCAL YEAR 1958-59 3-30**

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for continuation of the public hearing on the preliminary budget for the fiscal year 1958-59.

The City Manager noted that the operating budgets and regular matters relating to the budget had been cleared. In addition to the Special Capital Improvement budget, supplemental requests for additional personnel for the Police and Planning Departments remain to be cleared. He suggested that due to the absence of Planning Director Smeath from the city because of death in his family, consideration be delayed until his return. He noted that he was submitting a report today, entitled "Six months' report on Fire-Police Cooperation, Winston-Salem, North Carolina" and recommended that no action be taken on the supplemental request of the Police Department until the Council members had an opportunity to study the report.

The City Manager suggested that the budget be adopted so that it could be in operation by July 1, and additional time be taken to clear other matters not yet resolved. Advantages would be 1) no special appropriations or a double set of books for the interim period will be necessary; 2) the work program is known generally and can be started sooner, 3) whatever time is needed to check out the remaining items, can be taken.

Mayor Marks asked if anyone in the audience wished to ask any questions or make any comments on the proposed budget. No questions were raised or comments made.

Director of Finance Bird reported that a change in the city's contribution to the county for health services had been incorporated into the analysis of action taken by the Council, which had not yet been approved.

The City Manager reported that the health services had been transferred to the County last year with the reservation that the city pay \$500 to the county for special services for the first year but the exact costs be determined on this year's experience. It now appears that this sum does not compensate the county for its special services on food handling, licensing, testing of city water, etc., and the actual costs are in the order of \$3000 or more. He recommended that the increase in this year's budget from \$1500 to \$3000 annually be approved.

#### MOTION

That the budget on the health services be adjusted from \$1500 to \$3000 and the necessary adjustments be made in the budget.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

Councilman Merrill requested that a report be submitted, on the supplemental request of the Planning Department, similar to that submitted by the City Attorney and in addition a report be made on the "absence from office" record of the Director of Planning.

The City Manager stated the staff would be glad to furnish the Council any information it requested. He stated that he had some information on the question raised by Councilman Merrill which he could mail him personally and if he wished to bring it before the Council he could do so.

#### ORDINANCE NO. 247-C.S., entitled

"AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1959, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS"

was adopted and ordered printed and published as provided by the Charter.

Introduced by Adams      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

#### FURTHER DISCUSSION ON NEW BUSINESS LICENSE REGULATIONS 4-47

With the unanimous consent of the Council members Roy Byllings, owner of Velvet Ice Cream Company, was permitted to raise a matter not on the agenda----license fees charged wholesalers under the new business license ordinance.

Mr. Byllings, representing 20 local wholesalers, considered that the license fee of \$75 charged the local wholesale distributors was discriminatory, as outside trucks in the same type of business were only being charged \$30 per year.

8 All the local wholesalers who are supporting the city are being penalized by the unfair competition from the outside trucks transacting the same type of business at a lower license fee, he contended.

The City Attorney stated that it was possible that the city was not properly administering the ordinance relating to outside trucks, that the outside firms should pay the general license fee as well as truck license. This is a real problem which needs consideration but due to a busy schedule neither the Finance nor Attorney's office has had the opportunity to study the problem. He recommended that the situation be checked as there was some unfairness in this provision since it had been the Council's intention to do otherwise because the outside contractors and other businesses license fees were increased to reflect the differential between a fixed place of business in the city. He suggested the possibility of having a different fee for retail and wholesale outside trucks.

Councilman Arata pointed out that the Council had recognized, prior to the adoption of the new ordinance, that there would be some "hardship" cases which would have to be reconsidered.

#### MOTION

That the matter be referred to the staff for investigation and report to the Council.

Moved by Mayor Marks      Seconded by Merrill      Unanimously carried

#### INFORMAL HEARING ON REQUEST OF ELKS LODGE FOR A VARIANCE FROM THE MODESTO MUNICIPAL CODE TO PERMIT A BLACKTOP SIDEWALK ALREADY INSTALLED REMAIN ON ITS PREMISES 5-02

Mayor Marks announced that the hour of 5:00 P.M. had arrived, the time set by the Council as provided by Section 1-4.03 of the Municipal Code for the informal hearing on the request filed by the Modesto Elks Lodge for variance from provisions of the Modesto Municipal Code relating to sidewalks and driveways.

The City Manager noted that a report had been previously furnished the Council.

Director of Public Works Ray reviewed the situation and stated that the installation of blacktop material in the sidewalk area on Fairmont Avenue was in violation of the Municipal Code for the following reasons:

- 1- No permit was obtained prior to doing the work;
- 2- The use of plant-mix or oiled materials are not permitted in the sidewalk area;
- 3- An excessive length of driveway is created.

He recommended that since there were no curbs and gutters in this block on Fairmont Avenue that a temporary permit be granted the Elks Club for the blacktop surfacing until such time as curbs and gutters are installed and at that time the blacktop surfacing be removed and sidewalks and standard driveway entrances to the parking lot be installed. He noted that a storm drain area was planned for this area in conjunction with the McHenry Avenue widening project which would include sidewalks, curbs and gutters in order to provide for storm drainage.

Harry Hurlbert, Secretary Manager of the Lodge, reported that the work had been done to correct chuck holes on the parking area which had caused damage to cars using the lot. The contractor, in filling up the holes, ran on out into the street beyond the property line placing the blacktop materials into the sidewalk area. The Club did not realize it was violating the ordinance and had no intention to do so, he stated.

## RESOLUTION NO. 58-186

A RESOLUTION GRANTING A TEMPORARY VARIANCE TO THE MODESTO LODGE NO. 1282 BPOE FROM PROVISIONS OF THE MODESTO MUNICIPAL CODE RELATING TO SIDEWALKS AND DRIVEWAYS UNDER CERTAIN CONDITIONS

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

INFORMAL HEARING ON VARIANCE REQUEST FILED BY EVERETT TURNER 5-83

Mayor Marks announced that the hour of 5:05 P.M. had arrived, the time set by the Council as provided by Section 1-4.03 of the Municipal Code for the informal discussion on a request of Everett Turner for a variance to permit sidewalks already installed remain around his residence located at 1010 Brady Avenue.

The City Manager noted that the report prepared by the Director of Public Works on the problems involved had been previously distributed to the Council members and to Mr. Turner.

Mr. Ray briefed the report, dated June 13, copy of which is enclosed with the records of this meeting. Mr. Ray reported that prior to the commencement of the installation of curbs and gutters on Brady, Fairmont and Carolyn Avenues by Mr. Turner, he had met with him and urged that the work not be done because of the lack of drainage in that area. On July 11, 1957 a variance request by Mr. Turner was denied, a permit to install concrete blocks in a driveway on the Brady side of his property. Sometime during the winter the city inspector discussed the rebuilding of an existing red brick sidewalk located on the Brady Avenue side, installed prior to annexation of the area and curbs and gutters on the street. The code regulations relating to construction of sidewalks, curbs, gutters and driveways were explained to both Mr. and Mrs. Turner. May 9, 1958, the city inspector discovered that work was being done on Carolyn, Fairmont and Brady Avenue involving the placement of brick in the sidewalk area. He stated a real potential hazard existed on the Brady Avenue side of the property for pedestrians using the sidewalks on the public right of way. Hazards also exist on the other two streets from the fact that broken or dislodged bricks are common. Mr. Turner was requested under date of May 13 to remove the unauthorized materials.

Mr. Ray stated that the work was done without first obtaining a permit, constructed of materials other than those permitted by the Municipal Code and a potentially hazardous condition exists at this location.

Mr. Everett Turner agreed with the resume of the situation presented by Mr. Ray. He stated that there was a misunderstanding at the time they decided to do the work as to the point the grade would extend, stakes were put in showing the grade level, and the mistake was mostly their fault. The work was not only done to beautify their property, he stated, but to relieve the flooding during rains, and to permit entrance to their property. He stated that he would have no objection to the granting of the permit to allow the present materials remain on a temporary basis until the storm sewer is installed. If the area from the curb is lowered, it would mean the re-planting of the entire Brady front of the property. The installation on Fairmont and Carolyn was not intended as a sidewalk but to stop the washing out of the dirt. The construction was done as a temporary measure until storm drains were constructed, to permit entrance to their property, and sidewalks would be constructed to meet the code regulations.

At the request of Councilman Adams, Mr. Ray drew a chart outlining

the slope of the construction and the location of the property line. He pointed out that the low point for drainage pick up in the area was located at Fairmont and Brady, water drained to this intersection where a dry well has been constructed. He reported that he had passed this intersection numerous times during the winter and he had never seen any water standing except at the intersection and not up where the walkway into the dwelling was located. He stated that he had made it a habit to inspect the property because of the problems of storm drainage in the community and the fact that he had discussed it with Mr. Turner. the summer before.

Mr. Ray reported that the city had had many requests from property owners who already have sidewalks installed to permit the sidewalks and curbs to be built higher because they happened to be at the low point of the block. In each case these requests have been denied without being presented to the Council. Building sidewalks upon such a basis would be comparable to building all the streets flat so that there would be no drains. There are approximately 100 intersections in the city which are worse than this one in respect to cut because of the necessity to have a gutter grade with a drainage possibility.

Mayor Marks asked Mr. Turner if he understood the code regulations before the work was done. Mr. Turner replied that he was trying to provide some means to get into his home and it was the only way it could be done.

Councilman Hammond reported that he had inspected the property, and as explained by Mr. Turner, this is a temporary arrangement to meet an aggravated water condition. The purpose for the installation was to alleviate a serious condition in front of the entrance to his house. If the sidewalk had been constructed in accordance with the code requirements, under heavy rains a person would be walking through possibly three or four inches of water. The hazard objection to the brick construction will be minimized because it will be in front of the house and can be watched. There is no question that when drainage is available the sidewalks should be brought to code requirements. Because of the water condition, he stated, the variance should be granted.

Councilman Spaulding noted that this type of problem had arisen many times and many persons had faced a similar problem. Nothing will solve this problem except a drainage system. There are certain things here, which are probably immaterial in this problem. The appearance of the work is fine, and the drainage problem and other things are not pertinent to the problem facing the Council today. The problem is that Mr. Turner proceeded in full knowledge that he was proceeding in violation of the ordinance rather than getting the variance first. The Council is now in a position of either enforcing the municipal code or not enforcing it. If the code regulations are "bad", it should be repealed and not ignored. A number of persons have had to tear out encroachments because they were in violation.

Councilman Spaulding stated that all persons feel they should have equality before the law and it is a two-way street. If a person expects protection under the law, he must accept the obligations also under the law. "I can't buy the doctrine that we are all equal under the law, but some of us are more equal than others". If these regulations are enforced in one instance, he considered, they should be enforced in another. If they are not enforced, the Council would have no answer to the fellow who might come up next week asking for the same thing. "If this variance is granted, I don't want to have to answer one of those questions tomorrow", he stated.

Councilman Merrill considered the Council should be temperate about these things. Mr. Turner's improvements beautify the area and he has agreed to install the sidewalks up to code when drainage is available. He considered that the city was violating the code by allowing the trees in redwood boxes on the sidewalks in the business area.

Councilman Spaulding stated that the work could have been done legally but was knowingly done illegally and the Council should not made an exception.

Councilman Hammond stated that the question raised by Councilman Spaulding was not pertinent to the situation because the function of granting a temporary variance is to meet a situation which will be corrected when other problems are handled as they arise, as was just done for the Elks Club.

Councilman Spaulding considered that the circumstances surrounding the Elks and the Turner variance requests were not similar, as stated by Councilman Hammond, that this was a "post-hope" variance and it has been the policy through the years not to grant these types. A person should not be allowed to violate the law and then come and ask for a variance.

Councilman Hammond stated that the only violation he could see was that Mr. Turner, contrary to the recommendation of Mr. Ray, had installed curbs and gutters, which in turn aggravated his water problem. The objection is primarily that Mr. Turner did not follow the staff's recommendation and delay until the storm drainage system had been completed. A question of favoritism has no more to do with this situation than the variance just granted the Elks. It is a condition being sought after to meet a temporary situation.

Councilman Spaulding pointed out that the appeal for a variance could have been made when the staff's recommendation did not meet Mr. Turner's plans.

Councilman Arata considered that "all of us make mistakes once in awhile and it is possible that the code regulations should be revised". He stated Mr. Turner would carry insurance to protect anyone who might fall on the sidewalk.

The City Attorney reminded the Council that a complete study on this matter was made by the staff and it had voted to keep the present regulations.

Mayor Marks pointed out that two problems had been raised---the one by Councilman Spaulding and the other by Councilman Arata. It is possible the code regulations should be changed if the sidewalks are to be used for other purposes.

The City Manager reported on his conversations with Mr. Turner regarding this matter. One of the problems facing the Council would be the liability and if the variance is to be granted Mr. Turner should assume this liability. The basic problem for the staff is not this particular matter but with all of the rest which are denied by the staff and persons are required to remove materials installed illegally without a permit. It is possible a procedure should be established where all of these matters automatically come up for Council action so that some people are not required to abide by the regulations while others can come in and get the variance granted by the Council after the work has been done.

Councilman Hammond contended that this case was identical to the Elks case and should be treated accordingly.

Mr. Ray pointed out that curbs and gutters had not been installed by the Club and if they had been he would have recommended denial of the request and require the material be removed as was done on many other occasions.

The City Manager stated that the staff made its recommendations to the Council on the conditions as they actually exist---at present there is no hazard at the Elks Club and it is in the public interest to have the variance. There is a public hazard at the Turner's property. This is now up to the Council to make the decisions.

Mr. Ray pointed out again that he had advised Mr. Turner in advance what the drainage conditions would be and urged him not to proceed with the installation of curb and gutters but advised it was up to him to make the choice. He stated he did this so that they would know what would happen and because he did not want them to come in later and say they had a big hole in front of their house. The installation of the curbs and gutter was no concern to the Public Works Department as long as they were put in the proper grade, which they were. The point is that the brick sidewalks are a hazard to pedestrians who have the right to use this portion of the public thoroughfare.

Councilman Adams stated that although the work was a temporary measure, it was done without obtaining a permit, which made it illegal. The sidewalk could be reconstructed now to meet the code without creating too many problems, he stated.

Councilman Merrill recommended the granting of the variance with the provision that the sidewalks be brought up to code requirements when storm drainage was available in the area.

Mayor Marks explained to Mr. Turner, before roll call on the resolution, that there were seven members on the Council and that unanimity was not the goal.

The City Manager again stated that the staff recommendation was made on the basis of the physical conditions.

RESOLUTION NO. 58-187

A RESOLUTION GRANTING A REQUEST OF EVERETT W. TURNER, 1010 BRADY AVENUE FOR VARIANCE FROM THE SIDEWALK PROVISIONS OF THE MODESTO MUNICIPAL CODE

Introduced by Merrill      Seconded by Arata  
 Ayes: Arata, Hammond, Merrill  
 Noes: Adams, Robinson, Spaulding, Mayor Marks  
 Absent: None

Mayor Marks reported the resolution failed to carry.

RESOLUTION NO. 58-187

A RESOLUTION DENYING REQUEST OF EVERETT W. TURNER, 1010 BRADY AVENUE FOR VARIANCE FROM THE SIDEWALK PROVISIONS OF THE MODESTO MUNICIPAL CODE

Introduced by Adams      Seconded by Robinson  
 Ayes: Adams, Robinson, Spaulding, Mayor Marks  
 Noes: Arata, Hammond, Merrill  
 Absent: None

MOTION

That the matter be held over on the agenda for a complete report on the similarity of the two variances.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

Councilman Merrill left at this time.

FINAL ADOPTION OF ORDINANCES 8-89

ORDINANCE NO. 243-C.S. entitled

"AN ORDINANCE APPROVING THE LEASING OF CERTAIN REAL PROPERTY TO THE VETERANS

OF FOREIGN WARS OF THE UNITED STATES, MODESTO POST 3199, A CORPORATION FOR A JUNIOR RIFLE RANGE AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH"

introduced on June 11, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Adams      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None          Absent: Merrill

**ORDINANCE NO. 244-C.S. entitled**

"AN ORDINANCE AMENDING CHAPTER 3 OF TITLE II OF THE MODESTO MUNICIPAL CODE RELATING TO ADMINISTRATIVE DEPARTMENTS, AND ADDING ARTICLE 4 TO CHAPTER 4 OF TITLE II OF SAID CODE RELATING TO THE REIMBURSEMENT OF EXPENSES INCURRED BY OFFICERS AND EMPLOYEES OF THE CITY IN PERFORMANCE OF THEIR OFFICIAL DUTIES AND REPEALING ARTICLE 2 & ARTICLE 3 OF CHAPTER 3 OF TITLE II OF SAID CODE"

introduced on June 11, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None          Absent: Merrill

**ORDINANCE NO. 245-C.S. entitled**

"AN ORDINANCE AMENDING SECTION 4-6.702 OF ARTICLE 7 OF CHAPTER 6 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO TAXICABS"

introduced on June 11, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Adams      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None          Absent: Merrill

**ORDINANCE NO. 246-C.S. entitled**

"AN ORDINANCE AMENDING SECTION 6-1.108 OF TITLE VI OF CHAPTER I OF THE MODESTO MUNICIPAL CODE RELATING TO APPLICATIONS FOR A BUSINESS LICENSE"

introduced on June 11, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None          Absent: Merrill

Councilman Merrill returned to the meeting at this time.

**ADOPT OFFICIAL STATEMENT REGARDING SALE OF 1958 CITY HALL BONDS 6-107**

The City Manager reported that California Municipal Statistics, Inc. had completed a draft of the official statement respecting \$950,000 general obligation 1958 city hall bonds, which will be sent to prospective bond purchasers. He recommended the adoption of a resolution adopting the statement.

**RESOLUTION NO. 58-189**

**A RESOLUTION APPROVING OFFICIAL STATEMENT RESPECTING \$950,000 GENERAL OBLIGATION 1958 CITY HALL BONDS OF THE CITY OF MODESTO**

Introduced by Adams      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: None

PROVIDE FOR SALE OF CITY HALL BOND ISSUE

RESOLUTION NO. 58-190

PROVIDING FOR THE ISSUE OF \$950,000 PRINCIPAL AMOUNT OF "CITY OF MODESTO 1958 CITY HALL BONDS": PRESCRIBING THE DATE AND FORM OF SAID BONDS AND OF THE COUPONS TO BE ATTACHED THERETO; PRESCRIBING THE MATURITIES OF SAID BONDS; FIXING THE MAXIMUM RATE OF INTEREST ON SAID BONDS; AUTHORIZING THE EXECUTION OF SAID BONDS AND COUPONS PROVIDING FOR THE LEVY OF A TAX TO PAY THE PRINCIPAL AND INTEREST THEREOF: AND DIRECTING NOTICE OF SALE OF SAID BONDS TO BE GIVEN

Introduced by Arata      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: None

The City Manager reported the sale was scheduled for July 9, 1958.

REPORT ON PROGRESS OF DEMOLITION OF OLD HOTEL BUILDING 9-15

Assistant Director of Public Works Ross Campbell reported that the demolition of the building was progressing in a very satisfactory manner. The work began on April 10 and the actual demolition of the building began on April 24. The contractor, California Wrecking Co., has until August 1 to complete the work but since it is so far advanced the company is now hoping to complete it two weeks in advance of that date.

The work has been conducted with a minimum amount of disturbance and inconvenience to the traffic and general public. During the course of the demolition, he stated, he had inspected the building constantly, and the Consulting Engineer's suspicions on the construction of the building have been borne out, as the steel floor joists in the building itself were just lying on the supporting beams, not attached in any manner whatsoever. He stated that he had walked over a section of the building where the floor had been removed and lifted up a beam. In one instance when the initial work had been started, the employees were jack hammering through the top floor and the vibration had actually jarred a couple of the floor joists off the supporting beams. Also the reinforcing steel in the walls were bare minimum, being temperature reinforcing and there does not appear to be any structural reinforcing on the outside walls at all. Some of these were things which the Consulting Engineer, at the time of his inspection, could not see but his appraisal has been borne out in the demolition.

REPORT ON MILLER MANUFACTURING COMPANY PENALTY PAYMENT 9-41

The City Manager reported that the staff had checked out the matter as directed by the Council and it has been cleared administratively.

CLEAR MATTER OF COUNCILMAN SPAULDING'S APPOINTMENT ON COUNCIL COMMITTEES 9-46

MOTION

That Councilman Spaulding be substituted on the Council committees formerly held by Councilman Anderson and alternate Council representative on the Stanislaus Cities Advisory Planning Committee.

Moved by Merrill      Seconded by Robinson      Unanimously carried

REPORT ON REQUEST FOR SIGN VARIANCE FILED BY JIM FRAZIER USED CAR LOT 9-60

The City Manager reported that Mr. Frazier had agreed that the consideration be held over to grant additional time for the staff to make further studies.

APPROVE RIGHT OF WAY AGREEMENTS FOR WIDENING OF MCHENRY AVENUE 9-68

## RESOLUTION NO. 58-191

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Arata                      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                                  Absent: None

REPORT ON PROPOSED ALTERATION OF THE POLICE BUILDING 9-76

Police Chief Bowers reported on the proposed plans for remodeling the police building. He estimated the costs to be in order of \$1500.

## MOTION

That the staff proceed on the plans for the alterations of the building as outlined by Police Chief Bowers.

Moved by Arata                      Seconded by Robinson                      Unanimously carried

APPROPRIATION TRANSFER OF FUNDS FOR STREET IMPROVEMENTS WITH GAS TAX FUNDS 9-120 (PROJECTS 76 AND 78)

## RESOLUTION NO. 58-192

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$17,950 FROM SPECIAL GAS TAX RESERVE TO SPECIAL GAS TAX FUND FOR STREET IMPROVEMENT

Moved by Robinson                      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                                  Absent: None

USE OF AIRPORT FOR STREET SURFACING MATERIAL 10-15

With the unanimous consent of the Council, Councilman Arata was permitted to present a matter not on the agenda---use of airport property for mixing street surfacing materials.

He pointed out that the dirt was being removed from the area which could be used in the future for business locations which would make the airport more self supporting.

The City Manager reported that the staff had been watching this operation very closely and considering available alternatives.

Mr. Ray reported on the efforts being made to locate an area off the airport property which would meet the soil qualifications to be used in the city "dream dust" material. He stated that there was still considerable area at the airport which could be used before the grade became too low. Councilman Arata agreed to meet with Mr. Ray at the airport to further consider the problems.

INCREASE OF RENTAL RATES AT AIRPORT 10-51

Mr. Ray reported that the renters at the airport had been notified of  
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the proposed increase in rates and that the ordinance would be presented shortly for Council consideration.

**APPROVE PROPOSAL FOR INSTALLATION OF FRUIT JUICE DISPENSING MACHINES AT MODESTO AND DOWNEY HIGH SCHOOLS SWIMMING POOLS DURING THE SUMMER MONTHS AND IN THE MADDUX YOUTH CENTER FOR THE ENTIRE YEAR BY MILLS SALES COMPANY**

Director of Parks and Recreation Lowrey reported on the installation proposal by the Company, which would be done without cost to the city, provide return of 10% of the funds and the city will be held harmless from any liability. He recommended that consideration be given to the installation at the swimming pools during the period of operation by the city and in the Maddux Youth Center for the entire year.

**MOTION**

That the staff be authorized to proceed on the basis outlined by the Director of Parks and Recreation.

Moved by Merrill      Seconded by Arata      Unanimously carried

**CITY ATTORNEY REPORT ON HANSON CONDEMNATION CASE 10-76**

The City Attorney reported that the case, a jury trial to acquire 6.8 acres for a city park from Olaf F. Hanson through condemnation proceedings, had been in session for 2 days and would probably continue until June 24. He stated that in accordance with the policy indicated by the Council last week and in view of the load in his office, he had associated Attorney Robert Bienvenue with him on the trial.

**REPORT ON FIRE-POLICE COOPERATION, WINSTON-SALEM, NORTH CAROLINA 10-87**

The City Manager submitted the report to be placed on the agenda at a later meeting.

**ADJOURNMENT**

**MOTION**

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:

  
Max E. Gallus, City Clerk

Council Meeting  
June 25, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Merrill, Hammond, Robinson, Mayor Marks

Absent: Councilmen: Adams, Arata, Spaulding

Councilmen Arata and Spaulding arrived at 4:37 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Halsted Gates gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of May 28, June 4 and 11, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM FRANK ANDREWS RE: DEMOLITION OF HOTEL MODESTO BUILDING 1-20

The letter was briefed by Mayor Marks and ordered filed.

#### LETTER FROM SENATE INTERIM COMMITTEE ON HOUSING AND RECREATIONAL NEEDS OF THE ELDERLY 1-26

The letter was read by Mayor Marks who suggested that it be referred to the staff to confer with organizations in the community who had made a study of the problems, such as the Soroptimist, Women's Improvement Club and Coordinating Council.

#### MOTION

That the letter be referred to the staff to work with local organizations in preparing a report for the Senate Interim Committee, as suggested by Mayor Marks.

Moved by Arata      Seconded by Merrill      Unanimously carried

#### APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR WATER LINE INSTALLATION ON McHENRY AVENUE 1-56

#### RESOLUTION NO. 58-193

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF 10" WATER MAIN ON McHENRY AVENUE, BETWEEN BOWEN AVENUE AND FLOYD AVENUE AND ON FLOYD AVENUE BETWEEN McHENRY AVENUE AND ALLEY OF BLOCK 6923 AND ON BOWEN AVENUE BETWEEN ALOHA WAY AND McHENRY AVENUE

Introduced by Merrill      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Adams

The time set for opening the bid was 2:00 P.M. July 7, 1958.

**APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE PURCHASE OF EXCESS DIGESTED SLUDGE FROM THE CITY'S SEWAGE TREATMENT PLANT 1-60**

**RESOLUTION NO. 58-194**

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE PURCHASE OF EXCESS DIGESTED SLUDGE FROM THE CITY'S SEWAGE TREATMENT PLANT**

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

The time set for the opening of the bids was 2:00 P.M., July 7, 1958.

**ORDINANCE AMENDING CODE TO REVISE RATES FOR USE OF MODESTO CITY-COUNTY AIRPORT 1-76**

The terms and conditions of the ordinance which established new fees for hangars, tie down, rental for office space and landing at the City-County Airport were reviewed by the City Attorney.

**ORDINANCE NO. 248-C.S. entitled**

**"AN ORDINANCE AMENDING THE TITLE OF CHAPTER 3 OF TITLE VII: SECTIONS 7-3.101 AND 7-3.103 OF ARTICLE I OF CHAPTER 3 OF TITLE VII: SECTIONS 7-3.401, 7-3.404, 7-3.405, 7-3.409, 7-3.412, 7-3.415 AND 7-3.418 OF ARTICLE 4 OF CHAPTER 3 OF TITLE VII AND REPEALING CERTAIN SECTIONS OF CHAPTER 3 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO THE MODESTO CITY-COUNTY AIRPORT"**

was introduced and ordered printed and published as required by the Charter.

Moved by Arata      Seconded by Merrill  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

**INFORMAL HEARING ON PARKING SITUATION ON JONES AND GRANT STREETS 2-07**

Mayor Marks announced that the hour of 7:45 P.M. had arrived, the time set for the continuation of the informal hearing on parking regulations on Jones and Grant Streets.

A letter was read from Dr. Earl E. Heaty, lessee in the Stark Building located on McHenry Avenue, Jones and Grant Streets, protesting the prohibition of parking on south side of Grant Street but approving of the establishment of "no parking" zones at the intersections of these streets with McHenry Avenue for a distance of approximately 40 feet.

Director of Parking and Traffic Carmody briefly reviewed the previous discussions and his reasons for recommending the "no parking" zones on the streets, which had been established on an experimental basis. He pointed out that Grant Street was only 24 feet in width between curbs and Jones Street 30 feet. Both streets are too narrow for two way traffic with parking on both sides. He recommended that

- 1- Parking be prohibited on both sides of Jones Street at its intersection with McHenry Avenue for a distance of 50' from the sidewalk;
- 2- Parking be prohibited on the entire south side of Grant Street;
- 3- Parking be prohibited on the north side of Grant Street at its intersection with McHenry Avenue for a distance of fifty feet from the sidewalk.

Councilman Arata reported on his inspection of the area. He pointed out that fire trucks had been handicapped in responding to calls on Grant Street due to its narrowness. He suggested that parking be prohibited on one side of this street on a temporary basis and reconsidered later if proved to be unsatisfactory; that "no parking zones" be created on both streets for a distance of 50 feet at their intersection with McHenry Avenue to permit visibility for drivers entering this street.

Mayor Marks asked if anyone in the audience wished to make any comments.

A. M. Garcia, 132 Grant Street, R. McConnoll, owner of house at 138 Grant Street, Warren Scanlon, 138 Grant Street, and Dr. Vern Stark, owner of Stark Medical Building, spoke in opposition to the prohibition of parking on the south side of Grant Street. Dr. Vern Stark suggested that since there were a great many curb cuts on both sides of Grant Street, that a "serpentine" type of parking be designed which would permit parking on both sides of the streets.

Mr. Carmody pointed out that this type of parking would not be possible since the driveways were approximately six to seven feet wide, a car stall is 22 feet wide and the establishing of a parking space across the street from each driveway would mean that there would be a parked car across every driveway making it almost impossible for a person to back a car out of his own driveway.

Mrs. K. W. Grinstead asked that a time limit be installed for parking on Grant Street to prevent all day parking.

Mayor Marks closed the hearing.

#### MOTION

That the Council expresses its view for the guidance of the Director of Parking and Traffic---that there be no parking on the south side of Grant Street and that on both sides of Jones Street and north side of Grant Street no parking zones be limited at the intersections to the extent of 50 feet from the sidewalk area at McHenry Avenue (both sides of the streets).

Moved by Arata      Seconded by Merrill

Unanimously carried

The staff was also asked to investigate and report on the feasibility of establishing two hour parking on both streets.

#### HEARING ON PROPOSED CLOSING OF GROVE STREET 4-90

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the hearing on the proposed closing of that portion of Grove Avenue located between McHenry Avenue and Geer Court.

The City Clerk certified that Resolution of Intention No. 262 had been published in the manner prescribed by law; notices were mailed to all interested parties, notices were posted in the area and no written protests had been filed.

Mayor Marks read a report entitled "Closing of Portion of Grove Avenue", dated June 24, prepared by the Planning Director for the City Manager, a copy of which is on file with the records of this meeting.

Mayor Marks asked if anyone in the audience wished to file any protests or make any comments.

Hart Cook, 810 Geer Avenue filed a petition with 37 signatures, protesting to the proposed closing.

C. F. Heckman, 637 Geer Court, favoring the closing stated that he had started to circulate a map and petition which would show those persons favoring and those opposed to the closing of the street but when he learned that most of the persons in the area had already signed a petition opposing the closing, he stopped his campaign. This uncompleted map and petition was filed with the City Clerk.

Council/<sup>man</sup>Spaulding considered that the problem was a local one, but from a standpoint of planning and traffic control the closing would be desirable.

Councilman Spaulding noted that many of the persons on the petition opposing the closing originally favored the closing.

Councilman Merrill expressed opposition to the closing, on the basis that property owners on McHenry Avenue were donating land for the widening of the street to four lanes and when this project is completed the small streets entering McHenry will not create a traffic problem.

Councilman Arata suggested that the closing of streets entering McHenry Avenue be delayed until after the widening project was completed.

The City Manager noted for the record that in the discussion of the conditional use permit and the closing of the street, the report submitted to the Council by the staff did not state that there would be no objection to the street closing. Unless the permit is appeal, it is now permanent, and the maps sent out to the Council indicate the use of the property if the street was closed and if it was not closed. The appeal was granted in such a way it could be dependent upon the action of the Council either approving or disapproving the closing of the street.

Mayor Marks declared the hearing closed.

#### RESOLUTION NO. 915-S.P.

A RESOLUTION REJECTING THE PROPOSED VACATION AND ABANDONMENT OF A PORTION OF GROVE AVENUE BETWEEN McHENRY AVENUE AND GEER COURT IN THE CITY OF MODESTO

Introduced by Arata	Seconded by Robinson
Ayes: Arata, Hammond,	Merrill, Robinson, Spaulding, Mayor Marks
Noes: None	Absent: Adams

Councilman Hammond stated that he was opposed to the granting of any conditional use permits on the basis that the Council should not do anything to encourage commercial development on McHenry Avenue until the necessary rights of way are secured to assure the 4 lane highway. By granting this type of permit the city is encouraging additional commercial development which increases the existing traffic problems. The Council should express itself along these lines to the property owners---the city is not in the position to encourage commercial development on this street until something is done about the traffic problem.

Director of Planning Smeath stated that the Board of Zoning Adjustment now has before it two applications for conditional use permits to use additional parking spaces upon McHenry. These must be processed and unless the Council wishes to convey a message to the Board or some reason for denying them is presented, the Board must consider them.

Mayor Marks asked Mr. Smeath to convey the point of view expressed by Councilman Hammond to the Board of Zoning Adjustment and advise that the Council had not taken any action.

INFORMAL HEARING ON ESTABLISHING ONE-WAY TRAFFIC ON PORTION OF CALIFORNIA STREET 7-76

Mayor Marks reopened the informal hearing on the proposed establishment of one-way traffic on California Street, between Jefferson Street and Paradise Road.

Mr. Carmody reviewed the previous discussions and reports on the matter. He stated that consideration of the matter had been held over until this date at the request of the Chairman of the West Modesto Improvement Committee, John F. Feltes so that he could present the minority and majority reports.

Answering a question raised by Councilman Arata, Mr. Carmody stated that at the present time the city did not have a truck route in the area and the people in the area prefer that no truck route be established as they are considering litigation against the Truck Terminal on California Avenue. They feel that the establishment of such a route would be detrimental to their case. It would also have the disadvantage of concentrating truck traffic on streets where it does not now exist. He stated that he did not propose to recommend to the Council the establishment of any truck route in this area,

The City Manager noted that as directed by the Council, a report had been prepared also by the Planning Department and copies distributed to the members. The report stated that the establishing of this one-way street would only be an interim solution and that when time permitted a general study of the area should be made.

The City Manager noted that a petition signed by 33 persons approving the one-way proposal had been previously filed. A petition, dated June 17, signed by 66 persons protesting the proposal was filed. A letter of protest filed by Hazel and Albert Pedersen, and a letter from C. L. Bass, member of the Citizens Committee for the Improvement of the West Side, approving the one-way street proposal was read.

John Feltes and Albert Pedersen spoke in opposition to the proposal.

Mayor Marks declared the hearing closed.

RESOLUTION NO. 58-195

A RESOLUTION DESIGNATING CALIFORNIA STREET BETWEEN JEFFERSON STREET AND PARADISE ROAD AS A ONE-WAY STREET IN THE CITY OF MODESTO

Introduced by Hammond      Seconded by Robinson  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

The City Manager stated that the Planning Department's recommendation--- that the staff be instructed to study the alternative actions necessary to a long-range improvement in this area based on the recommendations of the Preliminary General Plan and the necessity for protection of the residential area and school facilities from unrelated through traffic and industrial truck traffic---be considered when the work project list was discussed by the Council.

FURTHER CONSIDERATION OF SENIOR CITIZENS' CENTER 9-115

Mayor Marks noted that each Council member had received letters from the Modesto Improvement Club and Soroptimist Club as requested by Councilman Hammond, outlining the basis upon which the construction and operation of the Senior Citizens' Center was being proposed, a copy of which is on file with the records of this meeting.

Councilman Hammond considered that the plans for the operation of the Center outlined in the letters did not meet the necessary requirement. Too many things were implied for the long range program, and from the financial standpoint, before the city could embark on this program on the assumption that it would be self-supporting, there should be a better definition of the sources of income, the years the money is to be pledged, the personnel who would be responsible, etc. He stated that he could foresee that under the "flower of enthusiasm" the building could be built but after it had been in operation for two or three years and those persons who had worked hard to get the building built and program started are no longer taking an active part, the new members of the clubs would not have this interest, and the operation would then be in the hands of the taxpayers.

Mrs. Ione Hadley, President of the Women's Improvement Club, assured the Council that public contributions would be forthcoming for the building and operation of the center when a site was assured. She asked again that the Council grant permission to build the center in Enslin Park.

Councilman Merrill expressed his approval of the project and commended the Clubs on their endeavors.

Mayor Marks pointed out that those clubs which have one good project which they can sink their teeth into were the most successful clubs in the community. He stated that if both of these clubs would adopt this as their major project there would be no problems and the clubs would become stronger and better clubs.

Alta Coffee, Chairman of the Soroptimist Committee for the Center, asked that the Council approve the site in Enslin Park for the building. The record of these clubs of "seeing things through", she stated, should assure the Council of the financial success of the project. She pointed out that many of the contributing and supporting projects were waiting until a site was selected and the project assured before making their contributions.

Councilman Hammond stated that the question of who would assume the direct responsibility for the continuing operation of the center should be decided.

Mrs. Coffee reviewed the plans for the operation of the center which provided for the establishment of a joint administrative body with representatives from the two clubs and from the community at large, not subject to annual changes and elections. She assured the Council that the type of women who belonged to the two clubs would assure the continuing operation of the Center without taxpayer's support during the future years.

The City Manager stated that before a site was provided by the City it would be necessary that a contractual arrangement be worked out with these clubs for its use, maintenance and operation.

Mrs. M. Hamaway assured the Council that it would not "get this center back in its lap".

Mrs. Hadley reported that the Women's Improvement Club was presently underwriting the Senior Citizen's Club which was meeting in the Community Service Center. Dues charged the members of the Senior Citizen's Club and activities conducted by the organization make it practically self-supporting.

Answering a question from Mayor Marks, Mrs. Coffee stated the Club did not favor the property purchased by the City on Harriett Street from the Moose Lodge because of construction costs, it was near the County maintenance area and County Hospital, and was not centrally located.

Mayor Marks asked if any members of the audience wished to protest the locating of the Center at Enslin Park. Mr. & Mrs. Peter Giambanco, 417 W.

Morris Avenue, F. H. Stuhr, 423 W Morris Ave., Kenneth Olinger, 435 W Morris, Mrs. George Fagan, 429 W Morris, spoke in opposition to the locating of the Center in Enslin Park.

Mrs. Coffee considered that a public park was created and maintained for the public of the entire community and should be used for other things beside creating a pleasant view for surrounding property owners. They should be used for old and young alike. At present the old people are not getting their share of the recreational facilities in the city and these Clubs wish to provide those facilities. She stated that she felt that the Women's Improvement Club was not asking for anything but offering to further improve what they have already given to the city and the Soroptimist Club wants to go in with them in helping with this improvement. She considered that the minority group, opposing the location of the Center in Enslin Park, did not represent the majority opinion of the community. The proposed building will not be an eye-sore or public nuisance. The parking problem will not be as great with this group as they will come by bus or someone will bring them to the Center. The "old people" in the community at the present time represent close to 9% of the community and this percent is rapidly increasing. These people are entitled to something of the best and not to be shoved aside and put some place out of town.

Director of Parks and Recreation Lowrey answered a question raised by Rev. Halstead Gates, 910 14th St., that the proposed construction would take approximately one-fourth of the 8 $\frac{1}{2}$  acre park, including the parking area. Only 3 or 4 trees will have to be removed in the parking area because much of the parking will be placed on the present roadway through the park.

Mr. Gates pointed out that families with small children increasingly would be moving out of the park area and this area will be inhabited by senior citizens. He recommended that the park be used for the Center.

Councilman Arata stated he was opposed to using this park for the Center and recommended that the building be constructed in the T.B.Scott Park.

Howard Davenport, member of the Senior Citizens Friendship Club now in operation, spoke on the scope of the organization proposed by the Clubs and the operation of similar centers in other cities which had been built in city parks.

Mrs. Coffee cited the reasons why the Clubs were opposed to the T. B. Scott Park, 1) it would be adjacent to a cemetery, 2) the building would be in back of an old building (Modesto Community Center), 3) it would add to the parking load, 4) not be as centrally located as Enslin Park for the senior citizens. She pointed out that any site selected would be met with opposition by surrounding residents.

Councilman Hammond again stated that he was not satisfied with the operation plan and suggested that a "shake-down" arrangement program be instituted so that the Clubs could get some operating experience. He suggested that it be handled during an interim period at the Maddux Youth Center or through the facilities now in operation at the Modesto Community Service Center.

Mrs. Hadley asked if the Council would grant the Clubs the use of the facilities which they now use at the Community Service Center to carry its program on a full time basis, 7 days a week so that they could prove to the Council's satisfaction the need for this type of service in the community.

RESOLUTION NO. 58-196

**A RESOLUTION APPROVING THE REQUEST OF THE SCROPTIMIST CLUB AND THE WOMEN'S IMPROVEMENT CLUB TO LOCATE A SENIOR CITIZENS CENTER BUILDING IN ENSLEN PARK, SUBJECT TO ALL NECESSARY CONTRACTUAL ARRANGEMENTS**

**Introduced by Mayor Marks      Seconded by Robinson**

**Ayes: Robinson, Spaulding, Mayor Marks**

**Noes: Arata, Hammond, Merrill      Absent: Adams**

**Mayor Marks declared that the resolution failed of adoption for lack of a majority, and the matter was still before the Council for consideration.**

**The City Attorney recommended that the matter be held over until a full membership of the Council was present.**

**COMPARATIVE REPORT ON REQUESTS FOR VARIANCE, EVERETT TURNER AND ELKS CLUB**  
**16-50**

**The City Manager noted that as directed by the Council a comparison report on the requests for variances by Everett W. Turner and the Elks Lodge has been made by the staff and copies previously distributed to the Council members, a copy of which report is made a part of the records of this meeting.**

Copies of an earlier report by the Director of Public Works dated Oct. 23, 1957 and presented to the Council at that time on "Materials for Driveway and Sidewalk Improvements" was also sent to the members.

Councilman Robinson stated that during the past two or three years he had had more difficulty in reconciling his position on the subject of variances. He considered that the Council had two different problems, 1) where the storm sewage is determined and grades established in an area, and a person could put in sidewalks, curbs and gutters, which could become a permanent feature and a good investment, and 2) where storm sewage is not yet determined in an area and will not be determined for sometime, and a man knows that if he wishes to improve his property it will have to be taken out when the general storm sewage situation is determined.

Councilman Robinson wondered, and asked for the thinking of other members, whether two types of regulations should be established on these two different problems, 1) one would apply to the area in which the storm sewage problem is resolved, and 2) another set of regulations to permit some type of improvement of a more temporary nature where storm sewage is not yet set up, such as oil material, asphalt or brick sidewalks. He suggested that a temporary permit could be granted to a property owner with the understanding that when the drainage was available he would be compelled to install permanent improvements according to the Municipal Code.

Councilman Robinson stated the city had a lot of dirt areas which would be more dangerous than asphalt areas. He stated if a property owner wished to improve his property prior to storm sewer facilities, he should be permitted to do so without being required to use expensive materials which would be torn out later.

Mayor Marks pointed out that the answer to this problem was--psychologically if a person installed asphalt sidewalks he would be reluctant to change over to cement sidewalks. He pointed out that the Council already had established a policy on variances.

Councilman Arata considered that concrete sidewalks were necessary on main arterials and in an area where pedestrian traffic is heavy, such as churches, schools, etc. but in locations where traffic is light, as in the case of Mr. Turner, it seemed senseless to make him tear out the brick sidewalks.

Councilman Hammond stated the ordinance could not be changed without creating more problems than would be solved. However, the Council must temper the ordinance with variances as situations arise, peculiar to a specific location. The Council should not assume property values or traffic values or anything else, as a means of determining the city ordinances. They must be applicable to everyone on the same basis. He noted that previously the Council had granted variances to persons who had not yet put in curbs and gutters. Using this as a precedence, the city is encouraging people to not do what would ordinarily be the first things first. Just because a person has put in curbs and gutters is no reason to penalize him by not granting a variance. Variances should not be granted on ignorance of the law as the basis.

Councilman Hammond pointed out that the variances requested by the Elks Club and Mr. Turner were both located on Fairmont Avenue and the problems arose primarily because of excess water conditions due to lack of storm drainage facilities. Mr. Turner could not solve his problem and comply with the ordinance. He believed that in reviewing both of the variances that they should be treated alike, if granted for one it should also be granted for the other. Neither variance should be granted if the city was not reasonably sure that within a short space of time storm drainage would be installed in this area. It is just as easy for the Elks Club to put in curbs and gutters and conform with the ordinance as it is for Mr. Turner to tear his landscaping out and relandscape the front of this property. It would

be unwise for the Council to treat two problems of identical nature and not treat them alike. He stated that he was opposed to the present Council policy on approving blacktopping where curbs and gutters have not been installed.

Mayor Marks stated he did not consider the two variances as being the same and that the action was taken on the basis of policies set by the Council.

Councilman Spaulding raised a question as to the advisability of having variances in the regulations and whether the code should be amended to remove all variances so that everybody would get the same treatment.

Councilman Hammond stated, "I approve of the variance to the Elks Club last week but if we are going to grant a variance to the Elks Club and refuse one to Mr. Turner, I want to be on record that I am opposed to granting a variance to the Elks Club. I am not in concurrence. I don't want to try to straddle the fence when the problem is the same. Both of these people are in this problem because of water". He considered that the Council should review its policy on variances.

The City Manager pointed out that a controlling factor in decisions on variances has been whether or not in the staff's judgment what is proposed to be done constitutes any hazard.

Director of Public Works Ray pointed out that if the installation of blacktop or oiled sidewalk areas continued the community would have a problem since it would be living with it in three ways, 1) they will never get them out; 2) there would be a higher liability insurance cost to the city and 3) people will be injured because of faulty conditions. In the case of the improvement on the Turner property, there is definitely in the minds of the staff a hazardous condition for pedestrians, he stated. He stated that in many instances, until drainage is available, the city is better off if property owners do not install improvements, such as curbs, gutters and sidewalks. Any change in the city's policy is very important to the future people in the community and should be carefully considered. He stated that from the experience of other cities it would be best not to provide for any variances at all. This would avoid decisions by the Council on precedence. The Public Works staff recommends that the provision for variances be abolished as it is in all cities, except one, in its survey.

Mr. Ray answered a question raised by Councilman Robinson that if there was no improvement whatsoever, there was no liability on the part of the city, but if there was any improvement whether adequate or not, the city has a liability that it cannot escape.

The City Manager stated that this was one of the reasons the city's liability insurance rates were constantly increasing.

#### MOTION

That the policy of the Council on granting variances be again discussed at the Council meeting of July 9.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

Councilman Hammond stated that he wanted to discuss the policy and the two variances also.

The City Attorney reported that he had advised Mr. Turner to proceed with the removal of the sidewalks and indicated the time element involved.

After discussion of the matter by the Council it was left in the judgment of the City Attorney to proceed.

REPORT ON REVENUE AND EXPENSES COMMUNITY SERVICE CENTER 14-50

The City Manager reported that the revenue received from the Community Service Center was short of the actual operation costs but by crediting the building with the space presently occupied by the city offices, the revenue and costs would be approaching a "break-even basis". It is proposed that an increased effort be made to fill up some of the vacant rooms so that the center can be self-supporting.

REPORT ON REQUEST OF ART LEAGUE FOR REDUCED RENTAL AT COMMUNITY SERVICE CENTER

The City Manager reported that the Council Committee had reviewed the Art League's request for reduced rental at the Community Service Center and recommended that the space now rented to the League be rented for a monthly rental of \$45 per month instead of \$55 until an opportunity arose to rent the room at the full rental price established by the Council and at that time the League could either pay the full rent or move to the second floor of the Center.

Gertrude Skupin, representing the Art League, pointed out that the League was having financial difficulty in keeping up the gallery at the rental of \$55 per month. She contended that the reduction in rent proposed by the Council Committee would not afford the relief requested. She considered that the City should expend sufficient funds to keep this cultural enterprise in operation.

Miss Skupin pointed out that the League would not be able to bring good art shows to the city if all of its revenue would be expended in paying rent.

Councilman Hammond pointed out that the constant problem before the Council was the rejection of opportunities to provide the community with additional worth while services. He stated that the Art Center was a wonderful service to the community but at the same time was not the type of activity which the city as a whole should subsidize. The Council is already on record that adult activities should be self-supporting. The Council agreed that the only basis upon which the Community Service Center could be operated was that it also be self-supporting.

The City Manager asked the Council if the city could give the League some credit for its work and contribution on the mural proposed for the new city hall.

## MOTION

That the staff be authorized to proceed on the basis recommended by the Council Committee.

Moved by Arata                      Seconded by Robinson                      Unanimously carried  
MAYOR MARKS DECLARED A RECESS AT 11:10 P.M.

REQUEST BY KIWANIS CLUB TO HOLD TURKEY BARBECUE IN LEGION PARK 16-10

Bill Martin, representing the Kiwanis Club, requested permission to hold a Turkey Barbecue in Legion Park, Saturday, June 28.

The City Manager suggested that the permit be approved on the usual conditions, 1) that the Club file the necessary insurance policy and letter with the City Clerk agreeing to abide by the city's regular policy on the use of the park facility and 2) that the premises be cleaned up after the barbecue by the Club.

## RESOLUTION NO. 58-197

A RESOLUTION GRANTING A PERMIT TO THE KIWANIS CLUB TO HOLD A PUBLIC TURKEY BARBECUE AT LEGION PARK ON JUNE 28, 1958

Introduced by Arata           Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: Adams

APPROVE AGREEMENT WITH RAY GADA FOR MAINTENANCE OF RADIO AND ELECTRONIC EQUIPMENT 16-30

Provisions of the proposed agreement were presented to the Council.

## RESOLUTION NO. 58-198

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND R. S. GADA dba RAY'S RADIO SHOP FOR MAINTENANCE OF RADIO AND ELECTRONIC EQUIPMENT FOR THE CITY OF MODESTO FOR FISCAL YEAR 1958-59

Introduced by Arata           Seconded by Spaulding  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: Adams

GRANT VARIANCE TO JIM FRAZIER FOR POLE SIGN 16-55

The City Manager suggested that since the city's height regulation appeared to be below a lot of pole signs, an additional analysis be made by the staff but in the meantime a temporary permit be granted Jim Frazier to permit the existing pole sign to remain and after the report was submitted and the Council makes its decision that he comply with the decision.

## RESOLUTION NO. 58-204

A RESOLUTION GRANTING A TEMPORARY VARIANCE TO JIM FRAZIER TO PERMIT A POLE SIGN TO REMAIN AT 1324 TENTH STREET PENDING FURTHER STUDY OF REGULATIONS BY CITY STAFF.

Introduced by Merrill       Seconded by Arata  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: Adams

REQUEST FOR REIMBURSEMENT OF \$300 FILED BY SALVATION ARMY 19-20

The City Manager reported receipt of a report from the Salvation Army listing its expenditures and while the report had not been made quarterly as provided in the agreement, he recommended that the payment of \$300 be approved.

## MOTION

That payment of \$300 be authorized to Salvation Army.

Moved by Merrill       Seconded by Robinson       Unanimously carried

APPROVE AGREEMENT WITH MILLS SALES COMPANY FOR INSTALLATION OF FRUIT JUICE VENDING MACHINES AT THE DOWNEY AND MODESTO HIGH SCHOOLS DURING THE SUMMER SEASON AND AT MADDUX YOUTH CENTER THROUGHOUT THE YEAR 19-25

## RESOLUTION NO. 58-199

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MILLS SALES COMPANY FOR INSTALLATION OF FRUIT JUICE VENDING MACHINES AT DOWNEY AND MODESTO HIGH SCHOOLS SWIMMING POOLS AND MADDUX YOUTH CENTER

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Introduced by Robinson      Seconded by Arata  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

HOLD OVER TRANSFER OF FUND FOR ALTERATION OF POLICE BUILDING

The City Manager reported that since the alteration of the police building could not be completed prior to the beginning of the fiscal year, it would not be necessary to adopt a resolution transferring funds. Item 13 on the agenda was removed.

APPROVE AGREEMENT WITH COUNTY FOR RECONSTRUCTION OF DENNETT DAM 19-27

The City Manager noted that the County had approved an agreement for the reconstruction of Dennett Dam, and outlined the provisions of the agreement for Council information.

RESOLUTION NO. 58-200

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR RECONSTRUCTION OF DENNETT DAM

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

ACCEPT STAIRWAY AT THOUSAND OAKS PARK FROM WILLIAM MINENI: AUTHORIZE PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION 19-42

RESOLUTION NO. 58-201

A RESOLUTION ACCEPTING THE CONSTRUCTION OF STAIRWAY AT THOUSAND OAKS PARK BY WILLIAM MINENI: AUTHORIZING PAYMENT OF AMOUNTS DUE: AND RECORDATION OF NOTICE OF COMPLETION

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

APPROVE APPROPRIATION TRANSFER FOR IMPROVEMENT AT COMMUNITY SERVICE CENTER 19-46

RESOLUTION NO. 58-202

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$614 FROM SPECIAL CAPITAL OUTLAY RESERVE TO COMMUNITY SERVICE CENTER TO COVER EXPENDITURES MADE FROM PARKS BUDGET

Introduced by Arata          Seconded by Robinson  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

NOTICE OF CANCELLATION OF LEASE OF PHOENIX AVENUE FIRE STATION BY EMPIRE COUNTY FIRE PROTECTION DISTRICT 19-50

The City Manager reported receipt of a letter from the Empire Fire District giving the city notice of one year, as required by agreement, that it planned to move from the premises leased from the city on Phoenix Avenue, possibly by November 1, 1958, but under the lease it would continue to pay rent. There would be a balance of \$4450.87 on prepaid rent on June 30, 1959, but this would not be due and payable to the District unless the building is used by the city or leased to some other party. He suggested that the city try to rent the property, prior to this time. No action will be necessary by the Council and the staff will notify the District that its notice was presented to the Council.

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AUTHORIZE ONE-WAY ALLEY REAR OF SEARS-ROEBUCK STORE 19-60

Mr. Carmody outlined his proposal to establish the alley as one way in order to provide greater safety for pedestrians and less congestion.

## RESOLUTION NO. 58-203

A RESOLUTION DESIGNATING A ONE-WAY ALLEY BETWEEN K AND L STREETS AND TENTH AND ELEVENTH STREETS IN THE CITY OF MODESTO

Introduced by Robinson      Seconded by Mayor Marks  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

CLOSE GOLF COURSE ON JULY 4 AT APPROXIMATELY 3:00 P.M. 19-72

## MOTION

That the closing of the Municipal Golf Course on July 4 at approximately 3:00 P.M. be approved.

Moved by Merrill      Seconded by Robinson      Unanimously carried

The City Manager reported that the staff had been working to assign specific responsibilities to each city department for the Fourth of July Celebration. The Committee is being advised of what can and cannot be done by the city. There will be considerable overtime costs to the city, he stated, in protecting the city property and traffic control. Reserve Officers and volunteer help will be used to the fullest extent possible.

APPROVE RENEWAL OF COMPREHENSIVE PUBLIC LIABILITY POLICY 19-87

Director of Finance Bird reported that libel, slander or defamation of character and invasion of privacy, wrongful eviction or wrongful entry coverage could be added to the city's renewal comprehensive liability insurance policy, effective June 27, 1958 for an additional premium of \$610.80. The City Manager recommended that this coverage be included in the new policy.

## RESOLUTION NO. 58-205

A RESOLUTION APPROVING RENEWAL OF COMPREHENSIVE LIABILITY POLICY INCLUDING ADDITIONAL COVERAGE

Introduced by Merrill      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

REPORTS FROM PLANNING COMMISSION 19-115

Director of Planning Smeath recommended that due to the late hour the consideration on annexation of Zlab Subdivision No. 2 be held over for one week.

The City Manager suggested that the matter of the Special Capital Outlay Fund in the budget be set for consideration at the Council meeting of July 9. Mayor Marks directed that it be placed on the agenda for this meeting at 8:15 P.M.

The City Manager stated that a copy of the report from the Planning Department on the Improvement Program would be sent out to the Council.

REPORT BY CITY ATTORNEY ON LEGAL ASPECT OF LIBRARY SITE 19-127

The City Attorney reported that there were no restrictions or reversion clauses in the grant deeds for the library site, and that the property could be used for other city purposes if the location of the library were changed.

REPORT BY CITY ATTORNEY ON OLAF HANSON CONDEMNATION PROCEEDINGS 20-03

The City Attorney reported that the proceedings had been completed after four days of trial and he recommended that the verdict of the jury of \$28,000 be accepted.

REPORT ON ACTION BY BOARD OF SUPERVISORS ON ZONING OF AREA NORTH OF MODESTO 20-16

The City Manager reported that the Board let the area north of Staniford and 1300 feet west of Carver Road go back into a zoning which is essentially uncontrolled but all other area within the limit was sent back to the County Planning Commission for further consideration.

## MOTION

That the Mayor be authorized to write a letter of appreciation to the Board for its action.

Moved by Mayor Marks      Seconded by Spaulding      Unanimously carried

NOTICE OF MEETING OF ASSEMBLY INTERIM COMMITTEE 20-25

The City Attorney reported receipt of an invitation from the Assembly Interim Committee to make a presentation at its meeting to be held in Stockton on June 27 relating to regulations of School construction.

## MOTION

That the City Attorney be authorized to present the city's position as being consistent with that of the League of California Cities which would reinstate the laws prior to the Taft case and give cities police power over school construction.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

REVISION OF CONTRACT WITH STATE RELATING TO MAINTENANCE OF STATE HIGHWAYS 20-35

With the unanimous consent of the Council, City Manager Miller was permitted to raise a matter not on the agenda---revision of contract with State for maintenance of State Highways.

Mr. Ray reported that by agreement the city has been maintaining the state highway routes through the city and was then reimbursed by the state. This work, due to personnel and equipment problems, has been difficult for the city. The staff is now negotiating a revision of the agreement which would provide that the only work to be done by the city on state highways would be the striping, maintenance of the signals, street lights and street sweeping. He recommended that the contract be revised on this basis which would permit the city to gain additional time for other work.

## MOTION

That the revision of the agreement between the city and state as outlined by the Director of Public Works be approved.

Moved by Arata      Seconded by Merrill      Unanimously carried

ADJOURNMENT

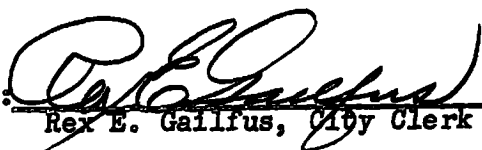
MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 12:20 A.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

July 2, 1958

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Adams, Arata, Robinson, Spaulding, Mayor Marks

Absent: Hammond and Merrill

Councilmen Hammond and Merrill arrived at 4:04 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Ray Singer, pastor of the First Four Square Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of June 18, and the same being available for public inspection and there being no objections, the minutes were approved.

#### REQUEST BY J. E. HART REMOVAL OF NO PARKING ZONE IN FRONT OF STORE AT 903 S. JEFFERSON STREET 1-19

Mr. Hart asked that the "no parking" zone recently established in front of his store located on 903 S. Jefferson Street, be removed. He claimed that this zone did not relieve the traffic sight restriction at this corner. The majority of trade for small stores, he pointed out, is the "pick-up" type, shopping for articles they have forgotten to buy at larger stores for week ends. He stated that it was necessary for him to have the parking space and it represented the difference between a profit or loss in his business.

At the request of Mayor Marks, Director of Parking and Traffic/<sup>Carmody</sup>re-viewed the background on the subject. He stated that a request for the zone had been made by John Feltes, member of the Westside Improvement Committee at the time one-way traffic on California Ave. for one block, was considered.

He cited the problems involved, 1) the area in front of the store was only 9 feet long and a car or truck cannot fit into the area without extending into the sidewalk area; 2) there is a problem of sight restriction similar to many other corners in the city when cars park up against the crosswalk since the sight restriction has been brought to the attention of this department it would present a problem if an accident occurred at this intersection; 3) pedestrian safety is a factor; 4) city ordinance regulations prohibit parking zones adjacent to crosswalks; 5) the city received an award in 1955 for its pedestrian safety efforts from the American Automobile Association and in the recommendations under legislation and enforcement it was suggested that the minimum distance from crosswalks from which parking be permitted be 20 feet as stated in the model traffic ordinance put out by the Bureau of Public Roads. He reported that there was a vacant area behind the store which could be used for transient trade which could accomodate 15 cars if it was paved and zoned permitting its use for this purpose.

After a general Council discussion on the matter, Councilman Adams asked that the matter be held over for one week until he could inspect the area before making his decision.

## MOTION

That the matter be postponed for one week.

Moved by Adams      Seconded by Mayor Marks      Unanimously carried

To a question raised by Marvin Heckendorf, owner of the store property, Mr. Carmody stated that the Department had notified Mr. Hart three days prior to the installation a no zoning area was going to be installed. Mayor Marks asked Mr. Heckendorf to work with the city staff and Mr. Hart to work out some arrangements for parking prior to the next Council meeting.

LETTER FROM INSTITUTE OF TRAFFIC ENGINEERS 2-126

With the unanimous consent of the Council, Mayor Marks read a letter received from the Institute of Traffic Engineers, which had not been included on the agenda, advising that Modesto had been voted a certificate of recognition by the Institute for its work in traffic engineering in 1957.

Mayor Marks commended Director of Parking & Traffic Douglas Carmody.

The City Manager reported that Modesto was the only city of less than 50,000 in California which had received this recognition, one of five cities in the State of California and one of the very few in the nation of this population.

FINAL ADOPTION OF ORDINANCE NO. 248-C.S. RATES AT AIRPORT 3-10

ORDINANCE NO. 248-C.S. entitled

"AN ORDINANCE AMENDING THE TITLE OF CHAPTER 3 OF TITLE VII; SECTIONS 7-3.101 AND 7-3.103 OF ARTICLE I OF CHAPTER 3 OF TITLE VII; SECTIONS 7-3.401, 7-3.404, 7-3.405, 7-3.409, 7-3.412, 7-3.415 AND 7-3.418 OF ARTICLE 4 OF CHAPTER 3 OF TITLE VII OF THE MODESTO MUNICIPAL CODE RELATING TO THE MODESTO CITY-COUNTY AIRPORT"

introduced on June 25, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata      Seconded by Robinson

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

FURTHER CONSIDERATION OF REQUEST OF WOMEN'S IMPROVEMENT CLUB AND SOROPTIMIST CLUB FOR A SITE IN ENSLEN PARK FOR A SENIOR CITIZENS' CENTER 3-10

Mayor Marks stated that further consideration would be given to the request of the Soroptimist and Womens' Improvement Clubs for a site in Enslen Park for the location of a Senior Citizens' Center building, as the vote taken at the last Council meeting had resulted in a tie vote. He noted that the public hearing had been completed at the last meeting but if the Council wished to reopen the hearing to hear additional facts which might effect its decision, it could be done.

Councilman Arata and Merrill reported receipt of numerous phone requests to delay the decision because the meeting was being held in the afternoon and the protestants could not be present. Councilman Merrill moved that the matter be postponed for a week out of courtesy to the people involved. The motion was withdrawn.

Councilman Adams stated he would be absent on vacation for two weeks.

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The City Attorney suggested that if the matter was postponed, it be postponed until Councilman Adams would be present as the vote had resulted in a tie last week and it would take a full membership of the Council to decide the issue.

Councilman Robinson stated the Council had been considering this matter for a long period of time and objected to delaying the matter any further. He also reported receipt of phone calls from persons objecting to the location of the Center in the park. All of these protests were the same as had been given at the public hearing, he stated.

Councilman Hammond stated that he was not particularly opposed to the building in the park but would like to see it constructed adjacent to the Scout house, thus grouping all of the structures at one corner of the park. This would do away with the necessity for destroying the landscaping in the park, the cost for installation of utilities would be less. He suggested that the Council receive a report from the staff on this suggestion. He considered that the Council might be acting too fast in granting a site without first placing conditions to be met by the Clubs. This would prevent the starting of the building without a definite commitment for its completion within a reasonable length of time. These conditions should be thoroughly understood between the city and clubs before a site is named. Stock piling of materials for an indeterminate period of time which would create a public hazard for children using the park, should also be resolved prior to the selection of a site in the park.

The City Attorney commented that the location in the park was the matter under consideration and that conditions concerning its development would be included in the agreement for construction and lease arrangements.

Councilman Robinson pointed out that granting a permit for a site was entirely different from granting a permit for construction and should be considered separately. Architectural beauty should be made a part of the agreement, he stated, but could be considered later when the agreement is prepared for Council consideration.

Councilman Hammond stated that it had been his experience that conditions could be settled easier before any commitment than afterwards.

Mayor Marks stated that he believed Enslen Park was the right location but he questioned if the Clubs weren't "passing up the most beautiful site in the city" when they objected to the property purchased by the city from Moose Lodge (Harriet Street) because construction costs would be higher.

Councilman Hammond stated that he was not completely reconciled that Enslen Park was the right place and when there is an element of doubt, a matter should be delayed. Conditions should be cleared prior to selection of a site because the type of program which it involves, the length of it and the nature of its support, behooves the Council to be right at the start of the project. These facts must be cleared, he stated, 1) proper location with Enslen Park, 2) stockpiling of materials, 3) the starting and completion of the building. If these are settled first the Council can tell the property owners adjoining the park just what they can expect. He stated that he had not completely satisfied himself that Enslen Park was the right place. He considered that the Council was making a hasty decision on the location.

Mayor Marks considered that the matters would be subject to further agreement later before construction was started. The Clubs want to be assured of a site so they can proceed.

Mrs. Ione Hadley, President of the Womens' Improvement Club, stated that the clubs had many commitments which they would not receive until a definite site has been granted. If this decision cannot be made today, it should be postponed until September so that the Council would be satisfied about the building and site. These Clubs do not want to "do anything that is not right".

Mrs. Alta Coffee, of the Soroptimist Club, spoke in favor of a postponement if by the time it is postponed they could have all the questions which the Council wished answered and have a chance to prepare the answers. A final set of questions from the Council is necessary, she pointed out, so that new questions are not raised at each meeting. If the decision is made today, the Clubs are willing to give all the answers to questions raised at the proper time when the contract is prepared and approved by the Council.

Councilman Robinson stated that before he would approve the granting of a permit for the building, he would like to see the plans, exterior view, architectural design and landscaping. He considered that it was the city's responsibility to approve these features, and the questions raised by Councilman Hammond before permission was granted to construct the building but they could be cleared by contract agreement after the site had been approved.

Frank Stuhr asked that the decision on the site be postponed until the opponents could have a better representation.

Mayor Marks pointed out that a hearing had already been held, interested parties had been notified and a decision is now to be made by the Council.

#### MOTION

That the Council hold an evening meeting in the month of September for the decision on the site.

Moved by Merrill                      Seconded by Arata

Before Mayor Marks called the vote, Howard Davenport spoke in favor of a decision on the site at this meeting due to the rapid growth in membership of the Senior Citizens' Club.

Councilman Adams stated that he had listened to the dictaphone records of the discussion on this matter at the Council meeting of June 25, when he had been absent and had full knowledge of what went on and the action taken.

The City Clerk was ordered to call the roll on the motion.

Ayes: Arata, Hammond, Merrill  
 Noes: Adams, Spaulding, Robinson, Mayor Marks  
 Absent: None

Mayor Marks declared that the motion failed to carry.

#### RESOLUTION NO. 58-209

A RESOLUTION DESIGNATING ENSLEN PARK AS A SITE FOR THE SENIOR CITIZENS' CENTER SUBJECT TO EXECUTION OF A WORKING AGREEMENT ON THE ACTUAL LOCATION IN THE PARK, CONSTRUCTION, COMPLETION OF BUILDING, LANDSCAPING AND OTHER RELATED MATTERS.

Introduced by Adams                      Seconded by Spaulding  
 Ayes: Adams, Robinson, Spaulding, Mayor Marks  
 Noes: Arata, Hammond, Merrill                      Absent: None

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Peter Giambanco protested that the Mayor had no legal right to express his personal opinion in the discussion on the previous matter and he should have disqualified himself from voting on the resolution.

The City Attorney stated that the Mayor may participate in Council discussion, introduce motions and resolutions as the Charter adopted by the people in the City of Modesto provides that the Mayor is a member of the Council and possesses the right of the other members of the Council. Under the administrative procedure of the Municipal Code adopted by the Council, the Mayor is authorized to take part in discussions, and take an active part in decisions of the Council.

Councilman Merrill left the meeting at 5:20 P.M.

#### REPORTS ON SALARIES OF CITY EMPLOYEES AND RELATED MATTERS 6-63

The City Manager noted for the records that letters from the following groups had been filed on the matter of salaries for city employees:

- 1- Letter from the Modesto City Employees' Association
- 2- Letter from Modesto Fire Department
- 3- Report and recommendation of Personnel Commission

He noted that the employees had requested that the Council consider salaries at either a special or adjourned meeting. The Council decided on the date of Tuesday, July 15, at 7:30 P.M. for the meeting.

#### CONSIDERATION OF REPORT ON POLICE-FIRE COOPERATION 3-120

The City Manager noted that a report had previously been submitted to the Council entitled "Six months' report on Fire-Police Cooperation, Winston-Salem, North Carolina". He read and filed a copy of a report dated July 2, entitled "Fire-Police Cooperation in Winston-Salem, North Carolina".

Mayor Marks read the following statement into the record:

"For the past seven years this City Council has had before it in a general way, the possibilities for savings offered in Modesto by this so-called cooperative use of man-power in city operations. Informally we have given some thought to the 1951 recommendation of the Public Administration Service, and its recommendation was that Modesto Fire and Police service be integrated into a Public Safety Department. Now we have followed with interest reports of efforts along these lines undertaken by other cities but we have not so far officially considered application of the benefits of such cooperative use of man-power in Modesto. I am convinced that the time has come for us to do so. We should now decide whether or not this principle offers potential dividends both from the standpoint of savings to the taxpayers and of improved employee working conditions and compensation. If we do not endorse the principle of cooperative use of man-power then we should make our position clear and inform the staff that no further consideration be given to such possibility. If we agree that this general principle offers potential benefits for Modesto then the staff should be asked to make the specific studies necessary to indicate the degree of practicability of its application in Modesto and to determine what specific areas of coordination will be the most desirable and rewarding. Now is a particularly good time for us to make this decision. We have before us for consideration requests for additional fire and police personnel and both the additional fire station we are building and continuing annexation to the city point up the fact that steadily increasing man-power needs are inevitable. We owe it to the citizens of Modesto to search out and avail ourselves of every possible economy, and I am convinced the cooperative interdepartmental operation, wherever feasible, presents a most substantial opportunity

for savings, for example, it may be possible as time goes by to make better use of the space available in the central fire station on 11th Street. The office of Parking and Traffic will be removed from the basement of this building upon completion of our new city hall. Studies may reveal other more productive or cooperative uses for space areas within the building. On the relatively low cost site available next to the fire station we can construct a joint communication center. There would be the additional advantage here of adjacent available parking space. These represent opportunities for substantial initial savings in capital outlay. In addition to the continuing savings possible through cooperative use of man-power. I know of no valid basis for any objection to this. In the seven years in which we have postponed making this particular decision, we have talked a good deal about getting the ultimate value for the taxpayer's dollar; an objective which is fairly clear. We need the facts and the courage of our convictions. Finally perhaps the most important of all we need a little of the old pioneering spirit which made this community what it is today. I therefore propose that we take official action approving the principle of cooperative use of man-power and that we request the staff to make the necessary studies. If we do this related decision regarding fire and police personnel will have to be held in abeyance and I suggest therefore the staff studies in this matter be given all possible priority and that we designate now a tentative date for submission to the City Council of the staff report regarding feasibility and the precise operational format proposed."

Points brought out in the general Council discussion were:

- 1- If integration of police and fire personnel was so beneficial why haven't more cities tried it out;
- 2- That it offers potential savings and studies should be started at once;
- 3- That the Council should not commit itself as approving it in principle until after the study was made;

#### MOTION

That the staff proceed with the study as soon as it could be scheduled and give the Council a recommendation at the earliest possible date and if possible before the supplemental requests of the police and fire departments have been considered.

Moved by Robinson      Seconded by Adams

Mayor Marks declared the motion carried.

The City Manager read the recommendation of the Personnel Commission---  
 "that there are definite areas of city activity which could be developed and improved through the utilization of fire department personnel without impairing their primary purpose or effectiveness. The cooperative fire-police control system in certain areas in the city, similar in principle to the Winston-Salem program appears to have genuine merit. This Commission strongly recommends that an immediate program be undertaken to develop for Council's consideration those areas in city service where firemen's man hours can be more effectively utilized without lowering the high level of fire protection this city enjoys".

The City Manager suggested that the Council consider if the study is to be made, hiring outside help to assist the staff so that it could be completed in less time and be more on an impersonal basis.

Councilman Arata stated he believed the integration of the fire and police department would not be efficient or effective.

The City Manager answered questions raised by some of the Council members whether consideration could be delayed on the requests for additional help for the police and fire departments---that more policemen and firemen are needed now but that he would recommend, if the study is to be made promptly, the city not hire any additional policemen and firemen until the decision is made on integration. If some cooperative program is approved and if some of the present personnel in these departments do not wish to enter into the integrated program, the new ones could be hired on that basis.

Mayor Marks asked if the Council wished to approve of the principle of cooperative use of manpower within the limits of police and fire departments. Councilman Adams believed in order to approve of the principle, the study should be made first.

The City Manager pointed out that the matter of the principle has already been established and used every day in all departments of the city. The matter of a joint communication system makes sense, he stated, and will pay for itself in 3 years time. This principle is used in many cities of a much larger size than Modesto.

#### MOTION

That the staff investigate the desirability of using outside assistance, give a report of the costs and the selection of a firm to do the work at the next meeting.

Moved by Robinson      Seconded by Spaulding

Mayor Marks declared that the motion had carried.

#### REPORT ON POLICE REQUEST FOR ADDITIONAL PERSONNEL 8-97

The City Manager reported that Police Chief Bowers would report about the additional policemen needed at the next meeting.

#### REPORT ON PLANNING DEPARTMENT REQUEST FOR ADDITIONAL PART-TIME POSITION 8-100

The City Manager noted that copies of a report, requested by the Council, on supplementary request by the Planning Department for part-time associate planner had been sent to the Council. He stated that the staff was convinced in fairness to the city and the planning program, the extra help should be favorably considered by the Council. One of the items now pending of much importance, he stated, was the South Modesto Industrial Park.

Mr. Smeath displayed a map of the area and outlined the preliminary suggestion of development principles and analysis of design factors in the park. He reported that Wes Peterson would be available on a part time basis as he would be attending Modesto Junior College next year.

#### MOTION

That the supplemental request in the preliminary budget of the Planning Department for a part-time Associate Planner be approved.

Moved by Mayor Marks      Seconded by Adams      Unanimously carried

Mayor Marks left the meeting at 6:07 P.M.

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FURTHER CONSIDERATION OF TRAFFIC SIGNAL INSTALLATION AT 99 HIGHWAY, KANSAS AVENUE, NEEDHAM AND P STREETS 9-50

The City Manager asked that this matter be held over for further clearance.

REPORT ON CONDITION OF PROPERTIES IN 99 FREEWAY ROUTE 9-62

The City Manager reported receipt of a letter from the Division of Highways regarding conditions on lots along the proposed freeway right of way through Modesto where improvements have been removed.

The State's program for ultimate removal of loose debris from freeway property was outlined in the letter.

APPROVE AGREEMENT WITH BUREAU OF CENSUS FOR BLOCK STATISTICS 9-76

## RESOLUTION NO. 58-206

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND U. S. DEPARTMENT OF COMMERCE, BUREAU OF CENSUS, FOR CENSUS OF HOUSING BLOCK STATISTICS

Introduced by Adams      Seconded by Spaulding  
Ayes: Adams, Arata, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Merrill, Mayor Marks

REPORTS FROM PLANNING COMMISSION 9-80

(a) Annexation of Zlab Addition No. 2. The City Manager outlined a specific proposal for handling the matter.

(b) Terms of a proposed agreement for the furnishing of sewer service to the Zlab Addition No. 2 were briefly outlined by the Director of Public Works. He reported that the area had been developed as a subdivision, with the tentative map outside in the county, and now the subdivider wishes to annex and obtain city services.

A letter to the Council from the Planning Commission recommending the annexation of the area was read.

The Planning Director stated that the only substandard condition in the addition was 10 lots were below the width required in the subdivision regulations.                  that

The Subdivider must either submit the subdivision map showing all lots at least sixty feet in width or request a variance from the Board of Zoning Adjustment to permit the substandard lots to remain as approved on the tentative map.

## MOTION

That the staff be authorized to prepare the necessary documents for Council approval.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

APPROVE MEMBERSHIP OF MR. SMEATH ON COMMITTEE - CENSUS TRACTS 10-45

## MOTION

That Planning Director Smeath's membership on the committee established by the Chambers of Commerce for the development of census tracts for use by the Bureau of the Census in 1960 be approved.

Moved by Robinson      Seconded by Hammond      Unanimously carried

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The approval of the precise census tracts proposed was held over at the suggestion of the City Manager to permit him to make a further check on the matter.

CHANGE IN GOLF COURSE RATES 10-60

This matter was held over.

PROCEDURE FOR HANDLING CHARGES TO SPECIAL CAPITAL OUTLAY FUND PROJECTS  
PENDING CLEARANCE OF FUND BUDGET 10-61

The City Manager reported that certain capital improvement projects, approved in last year's budget, and started prior to the beginning of the fiscal year had not yet been completed and the funds had lapsed. These must be renewed to take care of current bills, for the Corporation Yard building, land acquisition for parks (Garrison School park) and traffic signal channelization at Washington and I Streets (part of the one-way street program), and backstops for two parks (Pike and Scott) until the special capital outlay budget is approved by the Council.

After general Council discussion, it was agreed that the item for backstops should not be included in the capital outlay budget (Park improvement) but handled out of the regular budget.

The City Attorney reported that the Attorney for Olaf Hanson, had filed a motion for a new trial on statutory grounds and had indicated that he will appeal from the verdict of the jury. He has advised that if the Council would pay \$30,000 instead of the award of \$28,000, he would abandon the motion for a new trial. The City Attorney recommended that the Council abide by the verdict of \$28,000.

RESOLUTION NO. 58-207

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$30,575 FROM SPECIAL CAPITAL OUTLAY RESERVE FUND TO SPECIAL CAPITAL OUTLAY FUND TO FACILITATE CONTINUATION OF WORK SCHEDULED

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Merrill, Mayor Marks

MOTION

That the City Attorney be instructed to advise Counsel for the property owner that the city was satisfied with the jury verdict in the Olaf Hanson condemnation suit and was unwilling to pay more for the property than the jury verdict of \$28,000.

Moved by Adams      Seconded by Robinson      Unanimously carried

MOTION

That the staff proceed with the installation of the blackstops at the T.B.Scott Park and the John Pike Park.  
Moved by Arata      Seconded by Spaulding      Unanimously carried

ESTABLISH SWIMMING POOL RATES 9-124

RESOLUTION NO. 58-208

A RESOLUTION ESTABLISHING RATES FOR THE USE OF THE SWIMMING POOLS AT THE MODESTO HIGH SCHOOL AND DOWNEY HIGH SCHOOL DURING THE SUMMER VACATION SEASON WHILE POOLS ARE BEING OPERATED BY THE CITY OF MODESTO

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Merrill, Mayor Marks

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The City Manager commended the Recreation staff on their prompt action in saving the life of a youngster who had jumped into the deep end of Downey High School pool without knowing how to swim.

REPORT ON FREEWAY MEETING 11-23

Copies of a report prepared by the Director of Parking and Traffic, dated July 2, 1958 on "Freeway Operations and Seminar, Sacramento, June 16-19, 1958" were distributed to Council members.

REPORT ON MEETING IN STOCKTON ON REGULATIONS OF SCHOOL CONSTRUCTION 11-27

The City Attorney reported on the meeting held by the Assembly Interim Committee on municipal and county government. He reported that he was having a clipping from the Stockton Record on the hearing reproduced and made available to the Council members.

PROGRESS REPORT ON BOND SALE 11-36

The City Manager reported that plans for the bond sale of the city hall bonds was progressing satisfactorily. He displayed a copy of the official statement. Copies of the statement would be sent to the members. later, he stated.

REPORT ON PLANTING FOR SCREENING OF DISPOSAL AREA 11-42

The City Manager reported, as authorized by the Council, trees and shrubs had been planted on the northerly side of the Sewage Treatment Plant area to provide a screen.

CITY ATTORNEY REPORTED OFFICE WOULD BE CLOSED ON THURSDAY, JULY 3 11-53

City Attorney Grimes reported that his office would be closed on Thursday, July 3, in order to remodel and enlarge the office.


ADJOURNMENT

MOTION

That the meeting now in session be adjourned to July 15 at 7:30 P.M.

Moved by Arata      Seconded by Spaulding      Unanimously carried

ATTEST:

  
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Hammond, Robinson, Spaulding, Mayor Marks

Absent: Councilmen: Adams, Arata, Merrill

Councilman Arata arrived at 7:40 P.M. and Councilman Merrill at 7:45 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Lewis Whithead. gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of June 25, and the same being available for public inspection and there being no objections, the minutes were approved.

#### AUTHORIZE PAYMENT TO STANISLAUS COUNTY FOURTH OF JULY COMMITTEE 1-20

##### MOTION

That the payment of the annual contribution of \$750 to the Stanislaus County Fourth of July Committee be approved.

Moved by Spaulding    Seconded by Hammond    Unanimously carried

#### ACCEPT RESIGNATION OF ELMER WINGER FROM BOARD OF ZONING ADJUSTMENT 1-25

A letter from Elmer Winger submitting his resignation from the Board of Zoning Adjustment due to business commitments was read.

##### RESOLUTION NO. 58-210

A RESOLUTION ACCEPTING THE RESIGNATION OF ELMER L. WINGER FROM THE BOARD OF ZONING ADJUSTMENT

Introduced by Robinson    Seconded by Spaulding  
Ayes: Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None    Absent: Arata, Adams, Merrill

Mayor Marks was authorized to write a letter of appreciation for services rendered the city to Mr. Winger and the certificate of service was ordered prepared.

#### GRANT PERMIT TO KIWANIS CLUB TO USE LEGION PARK FOR BARBECUE 1-37

A letter from James P. Mower, Chairman Business and Public Affairs Committee of the Kiwanis Club of Greater Modesto, was read requesting permit to use Legion Park for a public hamburger barbecue on Saturday, the 23rd day of August, 1958, from 4 P.M. to 7 P.M.

##### RESOLUTION NO. 58-211

A RESOLUTION GRANTING A PERMIT TO THE KIWANIS CLUB OF GREATER MODESTO TO HOLD A PUBLIC HAMBURGER BARBECUE AT LEGION PARK ON AUGUST 23, 1958 BETWEEN THE HOURS OF 4 P.M. TO 7 P.M.

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Introduced by Hammond      Seconded by Robinson  
 Ayes: Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams, Arata, Merrill

Councilman Arata arrived at this time.

LETTER FROM GOVERNMENTAL AFFAIRS INSTITUTE 1-55

A letter from John R. Eldridge of the Governmental Affairs Institute was read, expressing the Department of State's appreciation for the hospitality extended by Mayor Joe Mario Monaco of Bento Goncalves, Brazil by the Council and city staff.

REPORT ON BID CALL FOR INSTALLATION OF WATER MAIN ON McHENRY AVENUE AND ON FLOYD AVENUE 1-67

The City Manager reported that at the time scheduled for the opening of bids for the installation of 10" water main on portions of McHenry Avenue, Bowen Avenue, and Floyd Avenue, no bids were received. The Engineer's estimate for doing the work with city forces is \$5,641.70 and it is recommended that the staff be authorized to proceed on this construction with city forces as it is essential in order to provide a loop water system serving McHenry Village Subdivisions Nos. 1 and 2, and Montgomery Village Subdivisions Nos. 1 and 2.

RESOLUTION NO. 58-212

A RESOLUTION AUTHORIZING THE INSTALLATION OF 10" WATER MAIN ON McHENRY AVENUE BETWEEN BOWEN AVENUE AND FLOYD AVENUE AND ON FLOYD AVENUE BETWEEN McHENRY AVENUE AND ALLEY OF BLOCK 6923 AND ON BOWEN AVENUE BETWEEN ALOHA WAY AND McHENRY AVENUE IN THE CITY OF MODESTO

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams, Merrill

ACCEPT BID OF HAGER SUPPLY COMPANY FOR PURCHASE OF DRIED DIGESTED SLUDGE 1-83

The City Manager reported on the three bids received for the purchase of digested sludge at the city's disposal plant which had been opened at 2:00 P.M. July 7, 1958, in the City Clerk's office. He recommended acceptance of the high bid of 40¢ per cubic yard offered by Hager Supply Company.

RESOLUTION NO. 58-213

A RESOLUTION ACCEPTING THE BID OF FORTY CENTS (40¢) PER CUBIC YARD FROM HAGER SUPPLY COMPANY FOR THE PURCHASE OF DRIED DIGESTED SLUDGE

Introduced by Arata      Seconded by Robinson  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

FURTHER DISCUSSION ON MATTER OF CURB AND SIDEWALK VARIANCES IN CITY 2-07

Mayor Marks opened the meeting for further discussion on the subject of "variances".

The City Manager submitted the following report on the subject:

"in connection with the consideration of requests for variance from standard construction on the public right of way, the following among other alternatives exist:

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1. Continue with present ordinance, considering each request as it comes up on the basis of special conditions, potential hazard, etc.
2. Permit variances only under certain specified conditions in commercial or industrial areas.
3. Eliminate all variances.

Answers to the following questions might be helpful in reaching a decision:

1. Under some circumstances would the advantages of permitting substandard temporary construction outweigh the advantages of requiring a permanent installation to prescribed standards?
2. It is unreasonable or not in the public interest to require concrete curbs, gutters, sidewalks, and driveways?
3. Should a policy on variances be the same for sidewalks, curbs and gutters, and driveways?
4. Is there more (or less) need for conformance to these requirements in commercial or industrial areas?
5. Is lack of adequate drainage sufficient reason for granting a variance from such requirements?
6. Would it be desirable to grant a temporary variance under some circumstances upon condition that a bond or deposit be posted to guarantee future installation to meet prescribed requirements?
7. Should a variance be allowed under any circumstances if a substantial potential hazard exists?
8. Should these be permitted to make substandard installations be required to furnish insurance insuring the city against liability, and would this actually relieve the city of such liability?
9. Should it be established policy that no variance will be considered for any installation which has already been illegally installed?"

Mayor Marks raised the following questions:

- 1- Should the city do away with the ordinance entirely,
- 2- What would be the city's cost in increased insurance rates if this was done,
- 3- Since the ordinance had been in effect for such a long period of time, customs and walking habits of people had changed, should consideration be given to modify the regulations?

In the Council discussion the following points were made:

Councilman Merrill considered that the citizens should not be prohibited from beautifying their property and the city in general by construction of planters, flowers, brick sidewalks, etc, if they would agree to install sidewalks according to city standards when storm drainage was available.

Councilman Arata considered that items 6 and 7 of the report was his idea of the type of regulations to be considered.

Councilman Robinson pointed out that the main problem existed in those areas in the city where storm drainage was not available and water accumulated.

Councilman Hammond contended that amending the code would create more problems and that it was mainly a matter of interpretation by the Council of what creates the problems which calls for the need of a variance. Each variance should be considered with all possible leniency.

At this time the City Manager reviewed the code regulations for Council information:

- 1- The city does not require sidewalks except in new subdivisions;
- 2- There is no existing prohibition against plantings in the parking strip;
- 3- Although the city requires that curbs, gutter, sidewalks, etc. should be put in according to specific city standards, the Council can vary this if it wishes to do so in certain instances;
- 4- The drainage problem not only exists in new subdivisions but in over one-half of the older section of the city.

Councilman Hammond brought up the matter of the similarity of the last two variances considered by the city---sidewalk variances for Elks Lodge and Everett Turner. He reported that Mr. Turner had not requested a variance because he had been advised by the city staff that he could not get a variance so he proceeded to construct the brick sidewalk at an illegal grade to solve his water problem. The chain of authority was so diluted, Councilman Hammond reported, the responsibility could not be pinned to any one person. Since there is no way to correct the water problems which existed in both instances, he stated, the Council should view these things with all possible leniency. He pointed out that most of the variances granted by the Council related to lack of drainage and the proposed construction would not present any hazard to the general public.

Mr. Ray reported that Mr. Turner had not been advised that he could not obtain a variance but that he could not construct a brick sidewalk without obtaining a variance from the Council. Mr. Ray stated, "the staff never predicts what the Council will do". Mr. Turner knew the procedure because he had previously requested the Council for a variance.

Mayor Marks considered that the beautification of the city should be balanced against the increased insurance costs when variances were considered. Councilman Hammond considered that the Council should "exercise good common sense in the granting of variances".

The Council discussed items 5, 6, 7 and 8 in the report, and the following remarks were made:

Councilman Hammond objected to establishing a factor for granting a variance, that the applicant furnish insurance, but it could be considered as a condition. There should be a substantial reason for the granting of a variance, he stated.

Councilman Arata pointed out that the number of requests would be minor because most persons would not wish to spend considerable money to construct a temporary improvement.

The City Manager reminded the Council that structures and plantings in sidewalk areas were two separate problems to be considered. He pointed out, according to his understanding, that if no sidewalk exists, the city has no responsibility but if it does permit a substandard sidewalk it accepts some responsibility for it.

The City Attorney pointed out that the two items the Council should consider were:

- 1- Of what materials does the Council want curbs, gutters, sidewalks, driveways and driveway approaches constructed;
- 2- Exceptions to that in certain occasions and if so when and under what conditions.

Councilman Hammond considered that all the Council could logically resolve from this discussion would be for the applicant for a variance to realize it would be on a temporary basis and a bond or deposit be posted to guarantee future installation to meet prescribed requirements.

Mayor Marks asked---does any member want to eliminate the code regulations or the granting of variances---and there was a general answer of "no" from the members. Councilman Hammond considered that item 8 relating to the furnishing of liability insurance, should not be included in the conditions as each case should be considered on its merits.

Mayor Marks stated that if the Council adopted a policy resolution at this time it could not be retroactive in effect. He considered that lack of adequate drainage should be a factor in considering variances.

The City Manager considered that variances should not be tied to lack of drainage specifically, and in considering item 8, if there is any substantial hazard they should not be permitted at all.

Mayor Marks summed up the discussion as follows: the ordinance stays on the books as is; except a resolution of policy is desired which would combine items 6 and 8 of the report.

The City Attorney asked if the resolution should have two parts, 1) factors to be taken into consideration in determining a variance, drainage available or whether a hazard is created, 2) if a temporary variance is granted that a combination of items 6 and 8 will be a condition.

Councilman Hammond considered the resolution should not include standards or factors upon which the Council could consider the variance, as those will be decided at the time of consideration of the request.

Councilman Robinson pointed out that the city would not have the right to legislate away its responsibility in case of injury to some person on the city's property by requiring the property owner to have insurance.

The City Attorney answered the question raised---that there would be no way to prevent the city from being named a party to the action.

Councilman Hammond contended that there would be instances where no hazard existed and the applicant should not be required to furnish an insurance policy. This was discussed generally by the Council, and it was agreed to include it in the conditions.

#### MOTION

That the City Attorney be instructed to prepare a resolution for Council consideration, including items 6 and 8 essentially as a matter of policy in granting variances.

Moved by Hammond      Seconded by Arata      Unanimously carried  
7-9-58      Page 5

SALE OF CITY HALL BONDS-1958 IN THE SUM OF \$950,000

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set by the Council for the opening of the bids received for the sale of \$950,000 City Hall-1958 Bonds

The City Attorney reviewed the basis upon which the bids were to be received as set forth in the official notice of the sale.

The City Clerk certified that the official notice of sale had been published in the city's official newspaper in the manner and for the time prescribed by law. He reported receipt of bids from the following companies:

American Trust Company  
Crocker-Anglo National Bank  
Halsey, Stuart & Co., Inc.  
Bank of America N. T. & S. A.  
The First National Bank of Chicago

The bids were opened by the City Clerk and turned over to the Director of Finance for computation. He retired from the Council Chamber along with representatives from the bidding companies. (9-01) Later in the meeting Mr. Bird returned to the Council Chamber and reported that the bid submitted by Halsey, Stuart & Co., Inc. with a net interest cost to the City of \$219,935 was the highest bid for the bonds. This includes consideration of the interest rates specified and the premium offered.

A representative of the First National Bank of Chicago asked that prior to the award of bid that it be noted as a matter of record, the notice of sale stated that the bids would be opened at the regular meeting of the City Council at the City Hall. He pointed out that he had good reason to know the Council was not at the city hall at 8:00 P.M. this date, the time set for the opening of the bids because he had waited from 7:35 to 7:57 P.M. and then learned where the meeting was being held. He considered that there might be telegraphic bids or special delivery bids which could be lower than any bid presently received. He asked that the matter be noted that the notice of sale was not correct or the Council was not correct in meeting at a different location.

The City Attorney asked that the award of bid be delayed until he could check with Bond Counsel.

The City Manager suggested that the meeting be adjourned until tomorrow, after checking with the Bond Counsel, in order that all questions could be cleared.

FURTHER CONSIDERATION "NO PARKING" ZONE ON JEFFERSON STREET AT RUBERTO ST.  
5-32

Pursuant to deferring decision on the request of J. E. Hart for the removal of a "no parking" zone recently established in front of his store located at 903 S. Jefferson Street, Mayor Marks opened the meeting for further discussion.

The City Manager reported that Councilman Adams had notified him that due to the fact he would be absent from this meeting that he would not inspect the property as he had intended to do and the Council should handle the matter in the regular course of business.

Mayor Marks asked Mr. Hart if the parking problem could be resolved by the approval of a variance by the Board of Zoning Adjustment to permit off street parking in the area located in rear of the store building, owned by his landlord, Marvin Heckendorf.

Mr. Hart agreed that it would be satisfactory. Mr. Heckendorf stated that it would be a solution to the problem.

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Mayor Marks pointed out that it would be possible for the Council to recommend to the Board that the conditional use permit be granted and asked Mr. Heckendorf and Mr. Hart to confer with the Planning Director on the procedure to obtain the permit. He pointed out that until the ruling was made by the Board the parking regulations in existence prior to the "no parking" zone would remain in effect.

FURTHER CONSIDERATION OF TRAFFIC SIGNAL INSTALLATION AT 99 HIGHWAY, KANSAS AND NEEDHAM AND P STREETS 5-103

The City Manager reported that as directed by the Council, the staff had contacted the Tidewater Southern Railway Company to determine if it would be willing to dedicate a portion of its property in triangle Block No. 147, so that P Street could be moved over in connection with a joint city-state traffic installation program for Needham, 99 Highway at Tully, Kansas and P Streets. The Company does not wish to make any transfer of property. Dr. Cilker, owner of the balance of the block, has indicated that if P Street could be moved over far enough to permit him any gain as far as parking was concerned, it would be agreeable to him.

Director of Parking and Traffic Carmody outlined the available alternatives for the Council; 1) condemnation, 2) long range plan for connecting of Needham and Kansas Avenue, and 3) installation of signal on P Street.

The City Manager stated that the long range plan would be very costly and would take at least one and one-half years to complete.

Mr. Carmody pointed out that it was urgent for public safety that these signals be installed as soon as possible to regulate traffic and protect pedestrians. He estimated that the cost of rearranging the signals after the long range plan was completed would be approximately \$2000, to cover costs for electric cable.

Councilman Arata stated that he would favor leaving the existing type of parking in existence on P Street until after the signal was installed on P Street and at that time reconsider the need for parallel parking, in the light of traffic increase caused by the routing of traffic on this street.

The City Manager pointed out that there would be additional costs to the city involving the paving of the center section of P Street, in the order of \$2000 to \$2,500.

Mr. Paul Philbin, representing Dr. Cilker, stated that the matter was entirely up to the Council to make the decision and if it would solve the severe traffic problem on these streets, he would thoroughly approve the plan.

The City Manager suggested that in order to protect the city and property owners from damage suits, the existing parking should be formally legalized by Council action.

MOTION

That the staff prepare a resolution for Council consideration legalizing the present parking on P Street.

Moved by Arata      Seconded by Merrill      Unanimously carried

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CONSIDER EQUIPMENT NEEDS OF PARKING AND TRAFFIC DEPARTMENT 6-97

Authorization for purchase of a paint conditioner was delayed to permit Councilman Merrill to check on the price.

Consideration on the purchase of a calculator was held over for further clearance by the City Manager.

AUTHORIZE PLACING OF CHILDREN'S PARK IN BEARD BROOK PARK BY EXCHANGE CLUB 7-01

A report on the proposal of the Exchange Club to develop a Children's Playground area on city owned park property, prepared by Director of Parks and Recreation Lowrey was reviewed. He recommended the approval of a site for the playground area on the basis that the Exchange Club finance and develop it under the supervision of the city staff. The only area in the City parks which he could recommend, at this time he stated, would be Beard Brook Park. This park is only partially developed at the present time and there is approximately three to four acres at the north end which is not

presently utilized for any specific park purpose. The playground and parking area would require from 2½ to 3 acres and could fit into this particular area. This park is located in an industrial area and this type of use would not interfere with any residents in the vicinity of the park. The park would probably not need any supervision after construction but it would need a part-time maintenance man since there would be a number of specialized pieces of equipment in the area and considerable cleaning needed due to the high use the area would receive.

Mr. S. R. Hafely of the Exchange Club believes that there would be a need for two or more of these playground areas in the City; one could be located in Beard Brook Park and/or in the 9 hole golf course if it is to be converted into a community park, Mr. Lowrey stated. The Club is planning on making the project a community wide one, with other clubs and organizations and individuals participating in the work and expense.

Mr. Hafely answered a question raised by Councilman Hammond---the approval of a location would enable the organizations to start the planning program with the city staff on the costs and structures to be located in the area. He outlined the plans being considered for the financial arrangements of the projects which could be set forth in agreement form to be executed by the city and Exchange Club. He stated there would be an age limit of 6 years established for the children using the park facilities, that the area would be fenced and easily controlled.

Mr. Lowrey proposed that the Exchange Club and other groups formulate the plan suitable to the area in general cooperation with the Parks and Recreation Department but that the work be done by the organizations. Supervision in final construction would have to be provided by the city, he pointed out since it would be located on city property.

Mayor Marks pointed out to Mr. Hafely that the city was short handed in personnel for planning of parks and it would be necessary for the organizations to do a great deal of the work.

#### MOTION

That the Council grant permission to the Exchange Club to erect a Children's park facility in Beard Brook Park under the supervision of the staff but that all the work and funds come from the Exchange Club, subject to the usual contractual arrangements and approval of the final plans by the city.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

#### APPROVAL OF PRECISE CENSUS TRACTS 8-35

The City Manager noted that maps showing the precise census tracts proposed had been sent to the Council members. He recommended approval of the tracts.

#### MOTION

That the staff be authorized to proceed on the basis of the precise census tracts shown on the map made available to the Council.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

#### ELIMINATE PAVING OF TERESA STREET FROM PROPOSED IMPROVEMENT DISTRICT 8-43

Director of Public Works Ray reported that the City Clerk had received a new petition signed by 45 property owners on Teresa Street objecting to the inclusion of paving of this street as part of the proposed improvement district. Many of the persons who signed this new petition also signed the first petition requesting the paving.

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In view of this second petition, he recommended that the paving part be deleted from the district prior to sending out notices because of the fact that if a majority protest was received at the public hearing it would hold up improvements until next year. A majority of the people involved are in favor of curbs and gutters. This installation would mean that the city would follow with construction of oiled dirt street surfacing at its own expense. He reported that all the plans for the district had been prepared and all of the information was in the hands of the bond attorney for preparation of proceedings for a public hearing on the project.

He pointed out that there was a problem of scheduling of the project as it was obviously impossible to complete the project before the fall season as there would be over 9,000 lineal feet of curb and gutter involved and a minimum of 45 working days would be necessary to complete it. It would be impossible to make an award under improvement district proceedings until the last part of August, and the curb and gutter work would run into the month of November and it would be impossible for the city to grade and oil the streets. This work cannot be done except during the summer months. He listed alternatives available:

- 1- Proceed with the project as fast as possible which would mean that the streets would be torn up all winter until next summer;
- 2- Proceed with the hearing but hold up any advertising for bids for the construction until next spring or after the first of the year so that the work could be completed about the time oiling operations could be done;
- 3- Proceed with the hearing and after it was held to proceed with the oiling of the streets with city forces on the assumption that a favorable contract would be received and the curb and gutter work be done later.

He recommended that the third alternative be given favorable consideration. He reported that the City Manager had recommended that it would be best to wait until the city has received bids before any advance work was done by the city, to which he concurred.

#### MOTION

That the paving of Teresa Street be deleted from the plans for the Improvement District.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

#### APPROVE AGREEMENTS RELATING TO ZLAB SUBDIVISION NO. 2 8-96

Terms of two agreements between the city and Joe Zlab relating to 1) furnishing of sewer service and annexation of Zlab Subdivision No. 2, and 2) extension of the perimeter sewer line to the subdivision, were briefly outlined by the City Attorney. The required bond has not yet been filed, he stated, but a letter has been received from the insurance broker that an application has been made and it will be filed shortly. The agreement will not become effective until this bond is filed and it can be approved at this time subject to receipt.

#### RESOLUTION NO. 58-214

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND JOE A. ZLAB AND LOIS ZLAB, SUBDIVIDERS, FOR FURNISHING SEWER SERVICE IN ZLAB SUBDIVISION NO. 2

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Introduced by Arata      Seconded by Robinson  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None              Absent: Adams

## RESOLUTION NO. 58-215

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND JOE A. ZLAB AND LOIS ZLAB, SUBDIVIDERS, FOR THE CONSTRUCTION OF A PERIMETER SEWER LINE TO SERVE ZLAB SUBDIVISION NO. 2

Introduced by Spaulding      Seconded by Merrill  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

HOLD OVER ACCEPTANCE OF STREET LIGHTING INSTALLATION FROM INDUSTRIAL ELECTRICAL COMPANY 9-10

The City Manager asked that the acceptance of the installation of street lighting materials in the McHenry Village be held over for further clearance.

SPECIAL CAPITAL OUTLAY BUDGET 9-12

Copies of a work sheet on Special Capital Outlay Fund Budget, proposed allocation 1958-59, dated July 8, 1958 had been previously distributed for Council information, the City Manager reported.

The Council members asked for additional time to consider the report before any discussion was held. The City Clerk was directed to place it on the agenda for the next Council meeting.

The City Manager briefly reviewed the method used in preparation of the report to assist the Council in its study. He stated that there were two items in the report which might be changed and if so a summary report would be sent to the members, 1) payment on city hall bonds for the first year and 2) the revised proposed allocation on McHenry Avenue widening might be increased from \$75,000 to \$85,000. Councilman Arata suggested it might need to be \$100,000. The City Manager suggested that items in the budget which were still uncertain could be held in reserve and be cleared as presented. He asked that the members note on their copies any changes they might recommend and if they wished to clear any question before the next meeting to contact the staff.

SET DATE FOR HEARING ON APPEAL OF C. D. WARNER FROM DECISION OF BOARD OF ZONING ADJUSTMENT 9-55

The City Manager noted that C. D. Warner had filed an appeal from the decision of the Board of Zoning Adjustment in the matter of the use of his garage building on Yosemite Boulevard on July 3, at 4:05 P.M. The City Attorney stated that it would be necessary for the Council to set a date for a public hearing.

## RESOLUTION NO. 58-216

A RESOLUTION SETTING THE DATE OF JULY 23, 1958 AT 8:00 P.M. IN THE CITY COUNCIL CHAMBER AS THE TIME AND PLACE FOR THE PUBLIC HEARING ON THE APPEAL FILED BY C. D. WARNER FROM THE DECISION OF THE BOARD OF ZONING ADJUSTMENT

Introduced by Arata      Seconded by Merrill  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

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REFER APPLICATION FOR ANNEXATION OF NORTH PARK ADDITION TO THE PLANNING COMMISSION FOR INVESTIGATION AND REPORT 9-70

The City Manager reported receipt of the report of the Boundary Commission of the County of Stanislaus on the request of Arthur and Florence Wylie relating to the annexation of the North Park Addition to the City of Modesto.

RESOLUTION NO. 58-217

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS NORTH PARK ADDITION

Introduced by Merrill      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

INCREASE OF GOLF COURSE RATES 9-80

Copies of a report prepared by the Director of Parks and Recreation re: "Proposed increase in Golf Course fees", were distributed for Council information.

Mr. Lowrey briefed the report and recommended that on the basis of the rates charged at other courses in the valley and the continuing deficit between revenues received and expenditures at the Modesto Municipal Golf Course that the individual ticket rate be increased to \$7.50 and the family ticket rate to \$10 per month. He stated that this increase should result in a revenue increase of approximately \$2500.

He stated that the approved operating budget for the Course for the fiscal year 1958-59 was \$32,247 and the proposed increase indicated a very slight margin of profit over operating costs. He recommended that the daily, weekend and holiday fees and student ticket rates remain the same.

Mayor Marks noted that the rates used in the report for other cities were based on an 18 hole course. He pointed out that it was very difficult for ticketholder players to get onto the city's course over weekends. He considered that the time to change the rates would be at the time the new 18 hole golf course was completed and ready for use instead of at this time. It is possible that some of the present family ticket holders might drop out due to the increase.

Councilman Hammond commented that there was a deficit existing in the operation of the course and deficits were not corrected by continuing the same program in existence. The Council has established a policy that this type of activity be self-supporting.

The City Manager pointed out that the budget for the 1958-59 fiscal year had been reviewed with the Council on the basis of the increased rate and if it was not approved, the \$2500 additional estimated revenue would have to be corrected.

## RESOLUTION NO. 58-218

A RESOLUTION ESTABLISHING RATES FOR PLAY ON THE MODESTO MUNICIPAL GOLF COURSE AND RESCINDING RESOLUTION NO. 54-102

Introduced by Hammond Seconded by Merrill

Before the Clerk was directed to call the roll. Mr. Harry Rix, member of the Modesto Municipal Golf Club, objected to the proposed increase in rates, on the basis that it was not the right time.

Ayes: Hammond, Merrill, Robinson, Spaulding  
Noes: Arata, Mayor Marks Absent: Adams

The City Manager commended the members of the Golf Club who had assisted the city in patrolling the course during the Fourth of July Celebration.

The City Manager presented copies of a report "Suggested time schedule and estimated cost of complete development and initial operation, Dryden Park Municipal Golf Course" to the Council members.

CLEAR MATTERS RELATING TO CITY HALL PLANNING 11-30

The City Manager requested Council direction on the question of segregated vs unsegregated bids on the new city hall. The staff has reviewed this matter with the city's Architect, and checked with the schools and the county on their experiences and some of the local contractors.

He reviewed the terms of the contract between the city and the architect relating to segregated bids.

"that if the architect is asked to prepare bids on a segregated bid basis and if such procedure is followed, mainly the preparation of working drawings and specifications, to obtain segregated contracts, architect shall be paid a fee of 3% in addition to the fee provided for in section 6 hereof in respect to such portions of the work segregated from the general contract and bid and contracted for on a separate contract".

The City Manager pointed out that the extra charge would be made by the architect only on those portions awarded on a separate contract basis. These extra charges are based on the premise that the architect is responsible for tying the various contracts together. Generally speaking it is acknowledged and experience shows that there have been lower total costs on segregated bids. There is also some feeling on the part of some contractors that it gives them a better change "to get in on their own". Other contractors depending upon their relationship to the general contractor feel that there is no advantage to segregated bids.

The City Manager stated that the staff recommends that the work be segregated to the extent that there will be a 1) general construction contract, 2) heating and air condition, 3) plumbing and 4) electrical. If this was done bids would be received both ways, total and segregated. Mr. Pflueger estimates the amount of items 2, 3 and 4 would be of the order of \$275,000. The extra 3% architect fees on these items would be about \$8,000. The changes are very good that there would be a savings to the city if bids were called for on the segregated basis and some of the local contractors might be successful in receiving some of the awards.

Councilman Hammond considered that the architect should be well aware that the bids should land within the realm of the money which is available. The bonds for the city hall are for the purchase of furnishings as well as building the structure. He suggested that the Council should review this situation again with Mr. Pflueger at the time the final plans are approved.

The City Manager stated that to the best of his memory there was no action by the Council on any specific amount but it could be checked back in the records. Councilman Hammond stated that the Council had not "said specific but had talked in the general range".

The City Manager reported that the City Attorney had ruled on the section in the contract that the 3% additional charge for segregated bids should not be paid by the City unless an award was made on this basis. While the Architect did not wholly agree with this opinion, he had conceded to the opinion providing that the segregated bids apply only to 1) general construction, 2) heating and air conditioning, 3) plumbing and 4) electrical.

#### MOTION

That the staff notify the Architect in writing that the city wishes to proceed with segregated bids as outlined in his letter to the City Manager of July 3, 1958.

Moved by Robinson      Seconded by Merrill      Unanimously carried.

The City Manager recommended that two other matters relating to the City hall be held over for a later meeting, 1) emergency power and 2) wall mural.

At the request of Mayor Marks, Mr. Ray reviewed the terms of the agreement with the California Wrecking Company as related to cleaning up of the site of the city hall.

APPROVE AGREEMENT WITH STATE ON PERSONNEL SERVICE 12-43

RESOLUTION NO. 58-219

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STATE PERSONNEL BOARD FOR THE CONTINUANCE OF EXAMINING SERVICES DURING FISCAL YEAR 1958-59

Introduced by Merrill      Seconded by Arata  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Adams

CLEAR WHETHER COUNCIL WISHES ADDITIONAL INFORMATION OR COMPARISON ON SALARIES 12-47

The City Manager asked if the Council wished additional information or comparison studies on salaries before consideration was given, the staff would be glad to prepare additional reports.

The Council agreed to change its meeting date for consideration of the salaries from Tuesday at 7:30 P.M. July 15 to Wednesday, July 16 at 8:00 P.M. The Council authorized the City Clerk to notify the city employees of the change in meeting date.

CHIEF BOWERS INTRODUCED NEW POLICE OFFICERS TO THE COUNCIL 12-70

Chief Bowers introduced the city's four newest members of the Police Department, Arlin Young, Frank Clark, Alec Joseph and Gary Wiens.

PROPOSITION NO. 17 RELATING TO STATE REVENUE TO BE PLACED ON AGENDA FOR DISCUSSION 12-87

At the suggestion of Councilman Arata, the City Clerk was directed to place on the Council agenda for the next Council meeting, discussion on proposition No. 17 relating to state revenue which will be on the ballot for the November general election.

LETTER FROM CITY OF BAKERSFIELD RE: DISTRIBUTION OF FEDERAL URBAN FUNDS 12-87

With the unanimous consent of the Council, the Mayor was permitted to present a matter not on the agenda---letter from City of Bakersfield relating to proposed distribution of federal urban funds. The City Manager was directed to brief the communication for the Council at its next meeting.

REPORT ON DISCUSSION WITH POLICE AND FIRE DEPARTMENTS PERSONNEL ON PROPOSED STUDY 13-16

The City Manager reported that he had had some very fine, helpful discussions with personnel in both the Police and Fire Departments on the proposed study, and he stated that there is a better understanding of what we're talking about and not talking about.

ADJOURNMENT

## MOTION

That the Council meeting be adjourned until 9:30 A.M. Thursday, July 10, 1958, to consider award of bid on the city hall bonds.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

The meeting was adjourned at 10:35 P.M.

ATTEST:

  
 Rex E. Gailfus, City  
 Clerk  
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July 10, 1958

The Council of the City of Modesto met in adjourned regular session this date at 9:30 A.M., having adjourned from the regular meeting of July 9, 1958, in the Council Chamber at the McHenry Public Library, 14th and I Streets, as provided by Section 2-1.01 of the Modesto Municipal Code, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Arata, Hammond, Merrill, Spaulding, Mayor Marks

Absent: Adams and Robinson

Mayor Marks stated that the meeting was to consider the award of bid on the sale of the City Hall Bond-1958, which had been held over for further clearance with Bond Counsel relative to the the notice of sale.

The City Attorney reported that he had checked with the Bond Counsel who had advised that the notice of the sale was legal and satisfactory.

The Director of Finance reported that no other bids had been received.

RESOLUTION NO. 58-220

SELLING CITY OF MODESTO 1958 CITY HALL BONDS

Introduced by Arata Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Spaulding and Mayor Marks  
Noes: None Absent: Adams and Robinson

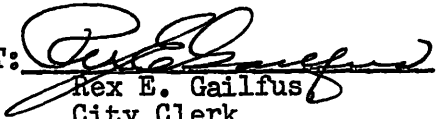
ATTEST

  
CITY CLERK

WHEREAS, the Council of the City of Modesto adjourned its regular meeting of July 2, 1958, until 7:30 P.M. this date as provided by Section 2-1.01 of the Modesto Municipal Code, and

WHEREAS, the Council members having previously waived written notice of this adjourned meeting as provided by Section 2-1.07 of the Code, the City Clerk adjourned this meeting until 8:00 P.M. July 16, 1958.

ATTEST:

  
Rex E. Gailfus  
City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen Arata, Hammond, Merrill, Spaulding, Mayor Marks

Absent: Councilmen Adams, Robinson

Councilman Robinson arrived at 4:09 P.M.

The pledge of allegiance to the flag was given by all those present.

Let. Kenneth Hodder of the Salvation Army gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of July 2 and the adjourned meeting of July 10, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM EVERETT TURNER RE: SIDEWALK VARIANCE 1-17

A letter was read from Everett Turner notifying that the landscape architect who had laid out plans for his garden was in Europe, and would be available by the end of September for the rearrangement of the sidewalk and parking area in front of his home at 1010 Brady Avenue. He asked that the city grant this additional time for him to comply with the Council's directive to remove the bricks from the sidewalk area. He stated that his insurance company was forwarding an insurance policy which would protect the city from any claims due to personal injuries involving the sidewalk area.

No objections were expressed by the Council and the letter was referred to the City Attorney to handle.

#### LETTER FROM FRANK ANDREWS 1-46

With the unanimous consent of the Council, Mayor Marks read a letter received from Frank Andrews which had arrived too late to be placed on the agenda, relating to the city's rights to the water in the Hetchy-Hetchy system operated by the City of San Francisco.

Mr. Andrews briefly discussed the problems with the Council.

Mayor Marks was called from the meeting at this time.

#### ORDINANCE PROVIDING FOR SALE OF SURPLUS USELESS AND UNCLAIMED PERSONAL PROPERTY 1-118

ORDINANCE NO. 249-C.S. entitled

"AN ORDINANCE PROVIDING FOR THE SALE OF SURPLUS, USELESS AND UNCLAIMED PERSONAL PROPERTY"

was introduced and ordered printed and published as provided by the Charter.

Introduced by Robinson      Seconded by Spaulding  
Ayes: Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                      Absent: Adams, Mayor Marks

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REPORT TO COUNCIL ON ADDITIONAL POLICE PERSONNEL 2-03

The City Manager noted that a report had previously been sent to the Council on this matter, "Justification for Police Supplemental Budget Request".

The City Manager pointed out that although the area and population of the City had increased materially during the past two years, the personnel in the department had only increased from 57½ to 59. He stated that the proposed program for the man power utilization might relieve this situation but the need was urgent at this time. He pointed out that the police service to the citizens/would became thinner and thinner with the annexation of areas unless the department personnel was increased accordingly.

Answering a question raised by Councilman Hammond, Police Chief Bowers reported on the additional clerical help approved last fiscal year for clearing up backlog report and records. Chief Bowers stated that his request for five additional patrol officers, one clerk and sufficient equipment to field the patrol personnel was to maintain the previously authorized level of service. There is a man hour need for about 52,000 man hours of service which does not include "door shaking" or other crime prevention activity other than patrol. The department is piling up an inordinate amount of overtime to accomplish the work at the present time. The monthly average, per man, of overtime is approximately 25 hours, beginning two months ago.

The problems involved and need for the extra personnel was generally discussed by the Council and Police Chief Bowers. Chief Bowers answered a question raised by Mayor Marks, that he believed some use could be made of cooperative personnel as of now but it would be his hope that the Council would approve 5 additional patrolmen to be used on the street to take care of present needs. There are a number of areas, he stated, where cooperative personnel could be utilized, but by the time the use of this type of personnel is investigated and trained, there will be need for more police personnel.

Mayor Marks brought up a question of the percentage of police calls which would relate to residents in the fringe area of the city. The Police Chief estimated that it would be roughly in the same ratio as the proportion of business in the city attributed to outside customers.

The City Manager recommended that if the Council approved the request the new personnel should be employed on the basis there might be some gain made in joint communications, for example, and the assignment of duties might be different if the cooperative plan is worked out.

Police Chief Bowers stated that the figures used in his report were actual figures of man-hour needs based on the cases reported to the department in 1957, the percentage increase in each category of case and projecting this in the fiscal year 1958-59. This would have nothing to do with population figures.

Councilman Robinson noted that the increase in crime in the city was three times greater than increase in population.

Police Chief Bowers stated that this condition was true all over the nation and that crime was increasing at a much higher rate than the increase in population. The large population increase in California was one explanation for the increase of crime. More accurate reporting of crimes increases the number of persons apprehended. The population on the periphery of Modesto accounts for many of the police cases.

Councilman Spaulding pointed out that if the city had more adequate police patrol it would prove a deterrent to crime.

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Councilman Hammond suggested that the policing of the city should be a part of the sales tax study.

Police Chief Bowers answered a question raised by Councilman Arata, that the approval of three instead of five patrolmen would do a great deal toward reducing the overtime problem. He also answered questions raised by Councilman Merrill on the operation of the Merchant Patrol organization, as related to the operation of the Police Department. He pointed out that the department was not contemplating rendering this type of service for the merchants as the limited personnel, even including the five additional patrolmen, would not permit this type of service.

The City Manager stated that if additional patrolmen were employed, it should be done on the basis that they would be utilized first in a cooperative manner if this were approved by the City Council.

MOTION

That the hiring of five additional patrolmen, one clerk and necessary equipment for this personnel be approved, and the staff be directed to prepare the necessary documents to implement this.

Moved by Mayor Marks      Seconded by Robinson

Mayor Marks declared, after a voice vote, that the motion did not carry.

MOTION

That the hiring of three additional patrolmen, one clerk and necessary equipment for this personnel be approved and directing the staff to prepare the necessary documents to implement this.

Moved by Arata      Seconded by Merrill      Unanimously carried

Mayor Marks pointed out that this would not close the door to the provision of the other two patrolmen at a later date.

The City Manager stated that a further report on equipment needed would be made to the Council. Councilman Arata suggested that the use of a motorcycle for patrolling traffic on 10th and 11th streets be considered.

MOTION

That a report be prepared by the staff on the feasibility of using motorcycles instead of cars for patrolling downtown traffic.

Moved by Arata      Seconded by Merrill      Unanimously carried

HOLD OVER APPOINTMENT ON BOARD OF ZONING ADJUSTMENT 4-100

The members agreed that this matter should be held over for study.

The Mayor, at the suggestion of some of the Council members, asked that the amending of the code regarding the appointments on boards and commissions, as previously discussed, be given a high priority by the City Attorney.

FURTHER REPORT ON CITY HALL PLANNING AND FINANCING 4-114

(d) Specifications for office counter construction The City Manager reported receipt from the architect of preliminary layout for the construction of built-in counters in the various offices of the city hall.

Architect Pflueger has notified that the plans and specifications for the city hall would be completed about August 4, bids could be called for on August 11, received by September 11 and construction could be started in September and completed in 15 months, making the building available for occupancy by December, 1959.

The City Manager reported the staff had reviewed the proposal for the construction of counters with the architect and others and have agreed that it would be desirable rather than to have the counters built in, to buy them on a prefabricated basis from the companies who handle this type of equipment. These would be standard type and removable from office to office if needed.

Don Toquero, representing Lee Brothers, outlined the problems involved when architects construct the office counters. He recommended that a production unit be used for the counters after establishing the types of uses behind the counter so that it can be fitted for all times.

#### MOTION

That the office counters be deleted from the plans and specifications on the city hall.

Moved by Hammond      Seconded by Arata      Unanimously carried

Mr. Toquero read a letter to the Council dated July 16, 1958, a copy of which is on file with the records of this meeting, outlining a method by which the city could obtain furnishing and equipment for the new city hall at the lowest possible cost and still get maximum flexibility and efficiency of operation.

He offered to furnish the city with specifications, drawings and layouts which would incorporate in one integrated compilation the data on all the equipment and furnishings which the city will need both now and in the foreseeable future.

He pointed out that his proposal would not exclude participation by any interested person or firm and that he would furnish 2 sets of specifications so that all interested persons could bid. He considered that he could furnish the equipment needed at a much lower price because he could use the city hall as a show room for other customers.

Mayor Marks expressed appreciation to Mr. Toquero for his offer of assistance and stated that it was the city's intention to give all local merchants an opportunity to bid on the furnishings. Whether the specifications prepared by Mr. Toquero would permit other local concerns to bid on equal terms was discussed.

Mr. Toquero recommended that the specifications be determined on manufacturer in order to secure the same color, type and model of equipment and the city then stick with this same company on purchase of all equipment in the future so that there would be uniformity throughout the city hall.

#### MOTION

That the proposal of Mr. Toquero's be referred to the staff for study, report and recommendation and that the staff work with all local office equipment companies in arriving at its recommendation for the furnishing of office layouts and equipment for the new city hall.

Moved by Hammond      Seconded by Robinson      Unanimously carried

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(a) Report from Architect on estimated payment schedule

The City Manager reported receipt of a report from the architect giving the estimated dates and payments which would be due to the contractor for the city hall. The payments are to be made monthly, he reported.

(b) Emergency power

The need for emergency power in the city hall for the basement area and garage area for pumping of sewage and storm water was outlined by Director of Public Works Ray. He pointed out that depending upon the fire or public works department for pumping out in the case of an emergency or electric outage would be undesirable. Emergency pumping facilities must be provided and electrical power could also be provided to furnish lights to the Council Room, Mechanical Room, and one multi-purpose room which could be used as an operating point for emergency services such as are carried out in times of need.

He outlined the costs and needs for 1) room for emergency facility only to be \$2500, and 2) emergency pumping and lighting needs would be approximately \$8400.

## MOTION

That the emergency pumping and lighting plan be approved as proposed of \$8400.

Moved by Arata            Seconded by Merrill

Mayor Marks declared that the motion had carried.

(c) Outside wall decoration

This matter was held over. The City Manager reported that the Architect has stated the plans could proceed without a decision on this matter.

(e) Authorize payment for official statement

## MOTION

That payment of \$831.16 to the California Municipal Statistics Inc. for the preparation of the official statement on the sale of the city hall bonds-1958 be approved.

Moved by Arata            Seconded by Hammond            Unanimously carried

## MOTION

That Mayor Marks be authorized to write a letter of appreciation to this company and the R. H. Moulton Company on their assistance on the sale of the bonds.

Moved by Spaulding            Seconded by Arata            Unanimously carried

## MOTION

That payment of \$1900 to Bond Counsel Orrick, Dahlquist, Herrington and Sutcliffe be authorized.

Moved by Merrill            Seconded by Hammond            Unanimously carried

APPROVE PERMIT FOR ENCROACHMENT ON CITY STREETS TO INSTALL GAS PUMP  
A. L. JENCKS 7-07

The City Manager reported that A. L. Jencks had filed a request for encroachment upon B Street between 11th and 12th Streets, in order to locate a gasoline pump adjoining warehouse No. 54. The pump is proposed for use of the Jencks Trucking Company for servicing its own equipment. The storage tank will be located on private property but the pump would encroach approximately 24 inches by 24 inches.

The City Manager recommended that a temporary permit for the encroachment be granted subject to the usual conditions for such encroachments upon city streets.

RESOLUTION NO. 58-221

A RESOLUTION GRANTING TEMPORARY PERMIT FOR ENCROACHMENT ON B STREET TO  
A. L. JENCKS TO INSTALL A GASOLINE PUMP.

Introduced by Arata                      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Spaulding, Robinson, Mayor Marks  
Noes: None                                  Absent: Adams

APPROVE TRANSFER OF SMITTY'S & CITY CAB COMPANIES TO JOE'S TAXI COMPANY 7-17

The City Manager reported that Mrs. Herschell Lawrence, owner of Smitty's Taxi and City Cab Company, wishes to sell her interest to Joe's Taxi because of her husband's death. Although Mrs. Lawrence has seven certificates, Mr. Sequeira will only operate three additional cabs and will reduce the number of stands from three to two.

The Director of Parking and Traffic has checked with the other two taxicab companies in the city and they have offered no objections to the transfer. He recommends that the transfer be allowed by the Council.

The City Attorney suggested that approval be given on the condition that all of the indebtedness of the city and Smitty's Taxi Companies must be paid prior to the transfer of the certificates, and that the four remaining certificates would be cancelled.

RESOLUTION NO. 58-222

A RESOLUTION AUTHORIZING THE TRANSFER OF THREE CERTIFICATES OF PUBLIC  
CONVENIENCE AND NECESSITY TO OPERATE TAXICABS FROM CITY CAB COMPANY TO  
JOE'S TAXI

Introduced by Spaulding                      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                                  Absent: Adams

REQUEST TO REPAIR CEMENT FLOOR IN SHIP CAFE IN THE RIGGS BUILDING 7-32

The City Manager reported that the city's tenant in the Riggs Building, Ship Cafe, operated by Ernest Gerisch, had requested the repair of the cement floor in the kitchen area.

Terms of the lease agreement were discussed with Mr. Gerisch, who was present.

MOTION

That the matter be referred to the staff to determine whether there is a need for a good patch job or an entirely new floor in the kitchen area and proceed accordingly.

Moved by Arata                      Seconded by Robinson                      Unanimously carried  
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Mr. Gerisch indicated his willingness to renew his lease upon its expiration in April 1960 for a term to expire in 1961 when the other lease in the Riggs building expires. The City Manager indicated that this matter would be checked out further with him.

ACCEPT INSTALLATION OF STREET LIGHTING SYSTEM IN McHENRY VILLAGE NO. 1 AND NO. 2 SUBDIVISIONS 7-92

The City Manager reported that the street lighting system in McHenry Village No. 1 and No. 2 Subdivisions had been completed by the contractor, Industrial Electric Company, with the exception of two lights where the right of way was not cleared. He recommended acceptance, recordation of notice of completion with the County Auditor and authorization of payments due under the contract.

RESOLUTION NO. 58-223

A RESOLUTION ACCEPTING THE CONSTRUCTION OF STREET LIGHTING SYSTEM IN McHENRY VILLAGE NO. 1 AND NO. 2 SUBDIVISIONS FROM INDUSTRIAL ELECTRICAL COMPANY, AUTHORIZING RECORDATION OF NOTICE OF COMPLETION AND PAYMENTS DUE UNDER THE CONTRACT.

Introduced by Arata           Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: Adams

REPORT ON INSTALLATION OF CURBS AND GUTTERS AND SIDEWALKS AT SANTA BARBARA AND ROBLE AVENUES 7-96

The City Manager reported that a petition with 13 signatures had been filed with the Council by residents on Santa Barbara Avenue requesting that the city take some action to get a curb and gutter installed on the corner of Roble Avenue. All of the owners had already installed their improvements and the failure of Mr. Albert Muth to install these improvements was creating some problems.

At the direction of the Council the staff endeavored to get the work done on a voluntary basis but so far the owner has not done the work as he informally agreed to do.

MOTION

That the staff be authorized to proceed with getting the work done under legal procedures available under the State Street and Highways Code in view of the fact the majority of the property owners have made the improvements.

Moved by Mayor Marks           Seconded by Spaulding           Unanimously carried

REPORT ON WATER LINE INSTALLATION ON GRANGER AVENUE 7-114

The City Manager reported that the water line had been installed on Granger Avenue between Tully and College and Sherwood Avenue and Tidewater Railroad by city forces at the cost of \$2,746.39. The engineer's estimate for the city doing the work had been \$2,973.

REPORT ON WATER LINE INSTALLATION ON TULLY, BRIGGSMORE TO RONALD AND IN ASHFORD TRACT NO. 2 7-116

The City Manager reported that the water line had been installed by city forces at the cost of \$1,261.58 and that the City Engineer's estimate for the city doing the work had been \$1,629.30.

The City Manager asked whether the Council wished the staff to continue reporting these costs. The Council indicated that it wished the reports continued as stated in its previous motion of policy.

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APPROVE AMENDMENT TO CONTRACT BETWEEN CITY AND COUNTY ON HEALTH SERVICES  
7-121

As directed by the Council the City Manager presented for Council approval an amendment to the contract with the County for health services providing for the payment by the city of \$3,000 per year.

## RESOLUTION NO. 58-224

A RESOLUTION APPROVING AMENDED AGREEMENT BETWEEN THE CITY OF MODESTO AND COUNTY OF STANISLAUS FOR THE PERFORMANCE OF PUBLIC HEALTH SERVICES BY THE COUNTY HEALTH OFFICER

Introduced by Arata      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

APPROVAL OF AGREEMENT FOR RENTAL OF HANGARS AT MODESTO CITY-COUNTY AIRPORT  
7-125

## RESOLUTION NO. 58-225

A RESOLUTION APPROVING AGREEMENTS BETWEEN THE CITY OF MODESTO AND (1) GARY SMITH AND WALTER FOUNTAIN, (2) NATHAN PROVINCE, AND (3) DONALD MONTGOMERY FOR RENTAL OF HANGARS AT MODESTO CITY-COUNTY AIRPORT

Introduced by Arata      Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

HOLD OVER DISCUSSION ON SPECIAL CAPITAL OUTLAY BUDGET 8-03

This matter was held over for discussion at a later meeting.

The Council requested that the city Manager send a report on the proposed joint communication center.

ESTABLISH PERPENDICULAR PARKING ON BOTH SIDES OF P STREET 8-10

## RESOLUTION NO. 58-226

A RESOLUTION ESTABLISHING PERPENDICULAR PARKING ON BOTH SIDES OF P STREET BETWEEN NINTH AND NEEDHAM STREETS IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

APPROVE AGREEMENT WITH EUGENE STURGIS FOR IMPROVEMENT DISTRICT PROCEEDINGS  
SERVICE 8-16

Terms of a proposed agreement between the city and Eugene Sturgis, Bond Counsel, which would provide for bond counseling services on all improvement district proceedings when Mr. Sturgis is notified in writing by the City from time to time as new districts are proposed, were outlined by the City Attorney. He pointed out that this would do away with the necessity to execute a new agreement each time.

## RESOLUTION NO. 58-227

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND EUGENE STURGIS FOR SERVICES AS BOND COUNSEL ON IMPROVEMENT DISTRICT PROCEEDINGS

Introduced by Arata      Seconded by Spaulding  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

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SET TIME AND PLACE FOR HEARING ON PROPOSED ANNEXATION OF NORTH PARK  
ADDITION 8-26

## RESOLUTION NO. 58-228

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE NORTH PARK ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Hammond      Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

The time set was 4:30 P.M. on August 20, 1958 for the hearing.

SET TIME AND PLACE FOR HEARING ON PROPOSED REZONING OF PARADISE CENTER  
ADDITION 8-30

## RESOLUTION NO. 58-229

A RESOLUTION FIXING THE TIME AND PLACE FOR A PUBLIC HEARING ON PROPOSED AMENDMENT TO SECTION 6 OF THE ZONING MAP OF THE CITY OF MODESTO (PARADISE CENTER ADDITION)

Introduced by Hammond      Seconded by Spaulding  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

The time set for the hearing was 8:00 P.M. August 13, 1958.

AUTHORIZE RELOCATION OF SEGMENTED CIRCLE AT MODESTO CITY COUNTY AIRPORT  
IN CONNECTION WITH CONSTRUCTION OF NEW RUNWAY 8-30

Director of Public Works Ray reported that the plans and specifications for the new runway and taxiway facilities at the airport did not include relocation of the segmented circle, wind sock and tetrahedron. It was planned to do this work with a change order later when details had been worked out with C.A.A. for an approved location and design for this air traffic control device, and the amendment to the federal grant agreement was held in abeyance to also include the purchase of an additional 13 acres of land lying east of the original land acquisition project and east of the new Snowden Avenue road extension. This information was obtained just prior to June 30.

The C. A. A. now advises us that they are unable to include these items in the current project by an amendment to the grant due to the statutory limitation of the allocations for this project and have suggested that an interim request for aid for these items will be considered if an application is filed, Mr. Ray stated.

Mr. Ray proposed to the Council that the city and county jointly proceed with the construction of a new segmented circle located between the two runways and move over the existing tetrahedron and windsock and at the same time the city and county make application to the C.A.A. for federal participation for construction of a lighted wind tee and sock and the purchase of the additional 13 acres of land. If approved by the Council, Mr. Ray stated, it will be presented to the Board of Supervisors for approval.

## MOTION

That the proposal outlined by the Director of Public Works for the construction jointly by the city and county be approved and that the filing of an application with the federal government be approved.

Moved by Merrill      Seconded by Spaulding      Unanimously carried  
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APPROVE USE OF PORTION OF STREET AND SIDEWALK AREA BY COUNTY IN CONSTRUCTION OF NEW COUNTY COURTHOUSE COURTS BUILDING 8-57

A request from the Contractors Hilp & Rhodes, building the new County Courts building regarding the use of part of 11th Street during the construction period, was outlined by the City Manager.

He pointed out that no Council action would be required but the matter had been presented so that the Council could be aware of what was happening on the street. No objections were expressed by the members.

HOLD OVER CITY MANAGER'S REPORT ON LETTER FROM CITY OF BAKERSFIELD 8-69

This matter was held over.

REPORT ON APPLICATION FOR RADIO FREQUENCY FOR GENERAL PURPOSE RADIO SYSTEM 8-72

The City Manager recommended that the city make application to Federal Communication Commission for a radio frequency for general use, which would be in addition to the radio frequency now assigned for fire and police broadcasting. He pointed out that it would require a considerable length of time to accomplish but by filing at this time the city would have "its name in the pot" and would not be overlooked when wave lengths are assigned. The new system would be used primarily by public works and parks departments.

## MOTION

That the staff be authorized to file an application with the Federal Communication Commission for radio frequency for general purpose radio system.

Moved by Spaulding      Seconded by Mayor Marks      Unanimously carried

PROGRESS REPORT ON FILE REORGANIZATION AND CLEARANCE 8-90

Ada Hubbard reported on the city's progress in file reorganization and clearance program. She displayed examples of the materials which had combined from three separate projects from all departments, but primarily the City Attorney, City Clerk and Public Works Department and materials which had been duplicated in these offices which could be destroyed.

APPROVE REQUESTS OF CITY ATTORNEY AND CITY MANAGER TO TAKE VACATION IN MONTH OF AUGUST 9-5

## MOTION

That the City Attorney be permitted to leave on vacation beginning August 4 through August 15 and the City Manager be permitted to leave during the early part of the month of August, and that both can be absent on vacation at the same time if necessary.

Moved by Hammond      Seconded by Robinson      Unanimously carried

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR IMPROVEMENT OF LALOMA AVENUE 9-36

With the unanimous consent of the Council, the City Manager was permitted to present a matter not on the agenda---approval of plans and specifications and authorize call for bids for improvement of LaLoma Avenue between North Santa Rosa Avenue and Yosemite Boulevard.

RESOLUTION NO. 58-230

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR IMPROVEMENT OF LA LOMA AVENUE BETWEEN NORTH SANTA ROSA AVENUE AND YOSEMITE BOULEVARD

Introduced by Hammond      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Adams

The time set for opening the bids was 2:00 P.M. August 4, 1958.

CITY MANAGER REPORTS ON FINANCIAL SITUATION OF CITY 9-42

With the unanimous consent of the Council, the City Manager reported that the fiscal report of the City for 1957-58 was being completed and "because of the amounts budgeted but not expended and because of some changes in revenue, it appears that the carry over from the past fiscal year is at least \$100,000 better than we thought we were".

ANNUAL REPORT OF CITY FILED BY CITY MANAGER 9-45

With the unanimous consent of the Council, copies of the annual report prepared by the City Manager were distributed to the Council members.

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 6:05 P.M.

ATTEST:

  
CITY CLERK

July 16, 1958

The Council of the City of Modesto met in adjourned session this date at 8:00 P.M., having adjourned from the meetings of July 2 and July 15, as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding, to consider salaries for city employees and related matters.

The City Clerk called the roll and there were

Present: Councilmen: Hammond, Robinson, Spaulding, Mayor Marks

Absent: Councilmen: Adams, Arata, Merrill

Councilmen Arata and Merrill arrived at 8:10 P.M.

Mayor Marks welcomed the city employees who were present at the meeting and invited them to attend other meetings of the Council.

City Manager Miller expressed appreciation to the Council for providing a time at an evening meeting so that the employees could be present. At the request of Mayor Marks the City Manager read his report to the Council entitled "Salary Recommendations", dated July 14, 1958, a copy of which is on file in the City Clerk's office. He recommended a general wage increase, but that "if the City Council was unable to grant at this time a one range general increase recommended by the personnel consultant and Personnel staff (in addition to the special increased proposed), that a partial range increase be granted now, or that an increase be approved effective later in the year. It is further recommended that if some general increase cannot be approved now, salary levels be restudied and reconsidered in November or December, with appropriate adjustments to be made in the light of conditions at that time."

Mr. Miller recommended that although Mr. Ennis indicated in his report that the city's department head salaries compare favorably with other cities similar to Modesto, that because of their level of ability and performance, any general salary adjustment should them also.

Mr. Miller stated that there were at least two alternatives which had not been given specific consideration;

1-Making a general adjustment now and living, at least until later in the year, with the present salary relationships in the Laborer to Leadman series of classes, the Recreation Specialists Series and the inadequate differentials between levels of supervisory responsibility in the Police-Fire series. This would result in an increase for all 330 city employees compared to some 148 affected by the Personnel Commission recommendation;

2-Limit the special salary adjustments to the Police-Fire series of classes in which appropriate pay differentials for varying levels of supervisory responsibility are needed. The cost of this action would be about \$8,000, including costs of retirement and compensation insurance and this adjustment could be coupled with some general increase. If this is done it is recommended that another review be made in November or December of the remaining portion of the 24 classes presently recommended for special adjustment.

He stated that in addition to the question of salary adjustments there are other matters before the Council relating to compensation or working conditions:

- 1- Reduced working hours for firemen;
- 2- City participation in group health insurance premium.

He stated in his judgment it would be to the city's interest to participate in the cost of such insurance. He listed the following approximate annual costs of alternative salary and compensation proposals:

#### Health Insurance (330 employees)

@ \$4.00 lowest recommendation of Personnel Commission	\$15,840
*@ \$4.08 probable premium	16,157
@ \$5.00 maximum recommendation of Personnel Commission	19,800

#### Special Classes Adjustments

Pers. Comm. recommendation (24 classes, 149 positions)	\$32,865
Labor to Leadman series only (14 classes, 121 positions)	24,527
Recreation Supervisor and Supt. only (2 classes, 3 positions)	881
Police-Fire series only (9 classes, 25 positions)	7,457

#### General Increase for all Classes

2½% (½ range - all employees)	\$39,808
3½% (cost of living - all employees)	55,732
5 % (one range - all employees)	79,617
2½% (½ range - below Range 30)	37,327
5 % (below Range 30)	74,654

#### Reduction in Firemen's Hours

# (3 additional Fire Engineers - D Step)	\$14,220
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Note: Above salary computations do not include about 6.82% for compensation insurance and retirement.

\* With \$10,000 maximum liability. Premium for present coverage of miscellaneous employees with \$5,000 maximum liability is \$5.22.

# Plus any increase affecting salary for this class.

Mayor Marks invited comments from the city employees:

Jim Puckett, President of the Modesto Municipal Employees' Association, stated that the City Manager had outlined the employees requests. He pointed out that during the fiscal year 1956-57 there were 1132 applicants invited to take civil service tests and only 105 were appointed, in 1957-58 1159 took tests and only 80 appointed. This shows that the city is striving for quality personnel, he pointed out.

Merle Taylor spoke on behalf of the police personnel. He requested that an additional range increase be granted to the Patrolman I classification, who are presently paid 10% less than Patrolman II classification. The two range differential between these two classifications are not justified, he contended, and requested that this classification be added to the group recommended for special adjustments.

Robert Carter, member of the Personnel Commission, offered to answer any questions the Council wished to raise on the Commission's recommendations and report.

Councilman Arata asked that the City Manager send a report to the Council members on the request filed by Mr. Taylor on behalf of the police department personnel.

The City Manager stated that this matter had not been brought to the staff's attention and might warrant some special investigation and report.

Mayor Marks asked the Personnel Department to send additional copies of the report to the Council members relating to the 24 classes recommended for special adjustment.

Police Chief Bowers reported on the number of patrolmen in each classification in the department, and on the informal understanding establishing the percentage of the department which could be advanced to the Patrolman II classification----no more than 50% of the patrol force. He stated that he wished to discuss this matter further at some later time.

Howard David reported for all city employees that it was their desire that one group insurance program be established. The Fire and Police Departments wish to do away with their own individual group insurance plan and join in with the other employees, he stated, under one plan. He expressed the hope that the Council would take city participation in premium costs under consideration this year.

Don Locke from the Fire Department asked that the salary differential as proposed between the police and fire department personnel be reduced.

## MOTION

That the City Manager prepare an analysis of the range classifications of Patrolman I and II and the differential in police and fire department range classifications.

Moved by Arata                      Seconded by Robinson                      Unanimously carried

## MOTION

That the analysis be related to the report made on classes recommended for special salary consideration by Kroeger & Associates.

Moved by Robinson                      Seconded by Arata                      Unanimously carried

Mayor Marks stated that the employees could present any additional matters which they wished considered, at any time previous to August 20 when the Council would give final consideration to salary matters, at which time a full membership of the Council would be present.

Mr. Puckett thanked the Council for holding this meeting at night so that the employees could make their presentations.

## MOTION

That the matter of salary matters be set as special order of business. at 5:30 P.M. on the agenda for the Council meeting of August 20.

Moved by Merrill                      Seconded by Spaulding                      Unanimously carried

ADJOURNMENT

## MOTION

That the meeting now in session be adjourned.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

The meeting was adjourned at 8:55 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

7-16-58 Page 9

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks

Absent: Robinson

The pledge of allegiance to the flag was given by all those present.

Rev. Clifton Keene, pastor of the American S. S. Union, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the adjourned Council meeting of June 18, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM BUILDING & CONSTRUCTION TRADES COUNCIL OF STANISLAUS COUNTY RE: BUILDING, PLUMBING & ELECTRICAL CODES 1-15

Mayor Marks read a letter received from R. L. Cloward, President of the Building and Construction Trades Council, recommending that the City Council and the County Board of Supervisors adopt the 1958 Building and Plumbing Codes and the 1956 Electrical Code, to bring more uniformity between the County code and the City code.

#### MOTION

That the staff check with the County and report to the Council on the possibility of achieving uniformity of Building, Plumbing and Electrical Codes.

Moved by Adams      Seconded by Arata      Unanimously carried

The City Manager gave the brief report on stepped up enforcement of the building, electrical and plumbing codes and stated that generally cooperation had been very good, but a few contractors were causing some problems.

#### RESOLUTION FROM CITY OF TURLOCK RE: CONSTRUCTION OF DEL PUERTO CANYON ROAD 1-40

A resolution from the City of Turlock expressing approval and recommending the construction of a State Highway through Del Puerto Canyon from the approximate vicinity of the City of Patterson to the approximate vicinity of the city of San Jose.

The City Manager pointed out that the Council had discussed the proposal in connection with the State park along Tuolumne River about three years ago.

#### RESOLUTION NO. 58-231

#### A RESOLUTION APPROVING THE CONSTRUCTION OF DEL PUERTO CANYON ROAD

Introduced by Merrill      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None      Absent: Robinson

## MOTION

That a copy of the resolution be forwarded to the County Highway Committee for their study and approval together with an accompanying letter from the City Clerk.

Moved by Merrill      Seconded by Adams      Unanimously carried

Councilman Arata suggested that the matter of the extension of highway to Yosemite be placed on the Council agenda for August 6, 1958.

## MOTION

That the matter of the extension of highway to Yosemite be placed on the agenda for August 6.

Moved by Arata      Seconded by Spaulding      Unanimously carried

RESOLUTION FROM CITY OF SAN JOSE RE: FEDERAL FUNDS TO CITIES 1-100

The City Manager stated that this matter was essentially the same as the one presented by the City of Bakersfield which he had been authorized to present to the State Chamber of Commerce meeting a year or so ago. He pointed out that despite the fact that more federal funds have been allocated than ever before, none of the money goes on any city streets in California for which any city is responsible.

City Manager Miller reported that the letter from the City of Bakersfield pointed out that in it's community the county of Kern constructed a county road connecting an urban area north of Kern River with it's City limits south of the river. Total cost to the county was \$577,000 of which \$137,000 was for a bridge. Of the total cost, 57% was federal money, 19% was state matching funds, and 23% county money. The traffic thus diverted to the city major street, Union Avenue, required the city of Bakersfield to reconstruct seven blocks of Union Avenue to proper standards, at a cost of \$185,715, without any aid from Federal Aid Urban funds, even though Union Avenue became an extension of a Federal Aid Secondary. He stated that the letter from the city of Bakersfield also pointed out that when the Federal Gasoline Tax was increased from 2¢ to 3¢, the average urban motorist pays \$27.00 per year into the Federal Road Fund.

City Manager Miller summarized the resolution received from the City of San Jose which urged state legislation to take effect immediately for the purpose of allocating Federal Aid Urban Money to cities on a formula similar to the formula used in allocating State Gas Tax Money to Cities; that such formula take into consideration the population of unincorporated area contiguous to an incorporated city; and that any unincorporated Urban area not contiguous to a city, and having a population in excess of 5000 inhabitants as provided for in the Federal Law, be treated the same as incorporated cities.

The City Manager answered a question from Councilman Hammond, that a report of road money distribution was being prepared in connection with the sales tax study.

Councilman Hammond pointed out that this matter was a big factor in fiscal relationships between the city and county.

## MOTION

That the staff prepare a resolution and report to the Council on allocations of gas tax money.

Moved by Hammond      Seconded by Adams      Unanimously carried

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LETTER FROM GOVERNOR KNIGHT RE: CIVIL DEFENSE AND DISASTER 2-25

Mayor Marks read a letter received from Governor Knight urging cities to check on their readiness of civil defense and disaster organizations and the status of operational plans, to insure that they are current and that all affected personnel are cognizant of their responsibilities and duties.

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR THE RECONSTRUCTION OF GRANGER AVENUE 2-40

Marvin Ray, Director of Public Works, reported that this project provides for the reconstruction of the section from the Tidewater Tracts west to Tully Avenue. Funds were provided for the complete project but that one right of way, which would have cleared the street to Florida, was held up at this time but a change of ownership. He recommended that the city proceed with this portion of the project in hopes that the balance of the work can be completed in the spring in the same fiscal year.

## RESOLUTION NO. 58-232

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR IMPROVEMENT OF GRANGER AVENUE BETWEEN TIDEWATER SOUTHERN RAILROAD TRACKS AND TULLY ROAD

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

The date set for the bid opening is August 4, 1958 at 2:15 P.M.

FINAL ADOPTION OF ORD. NO. 249-C.S. RE: SALE OF USELESS AND OBSOLETE PERSONEL PROPERTY 2-50

## ORDINANCE NO. 249-C.S. entitled

"AN ORDINANCE PROVIDING FOR THE SALE OF SURPLUS, USELESS AND UNCLAIMED PERSONAL PROPERTY"

introduced on July 16, 1958, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Arata      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

AMEND CODE RE: REQUIREMENT FOR BOND-PRIVATE POLICE PATROL SERVICE AND DETECTIVE AGENCIES 2-55

the  
The City Attorney reviewed/business regulations which require a bond for private police patrol and detective agencies. He pointed out that the state law required a bond which is considered adequate and that the city's requirement is an unnecessary duplication which should be deleted.

## ORDINANCE NO. 250-C.S. entitled

"AN ORDINANCE AMENDING SECTIONS 6-8.103 and 6-8.203 OF THE MODESTO MUNICIPAL CODE RELATING TO BOND REQUIREMENTS FOR PRIVATE POLICE PATROL SERVICE AND DETECTIVE AGENCIES"

was introduced and ordered printed and published as required by the Charter.

Moved by Hammond      Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

REPORT ON INSTALLATION OF CURBS, GUTTERS AND SIDEWALKS ON SYCAMORE AVENUE 2-74

Director of Public Works Ray reported that all work had been completed on Sycamore between Roseburg and Orangeburg Avenue except the installation of sidewalks at property owned by Mrs. Clara Holmes, 1202 Sycamore Avenue. He recommended that, in line with the State Streets and Highways Code, the city require the installation of the sidewalks and the cost would be added to Mrs. Holmes' tax bill.

## MOTION

That the staff prepare the necessary papers to require the construction of sidewalks at 1202 Sycamore Avenue.

Moved by Merrill      Seconded by Hammond      Unanimously carried

CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS ON ROBLE AVENUE BETWEEN SANTA BARBARA AVENUE AND NORTH SANTA ANA AVENUE AND WEST SIDE OF SANTA BARBARA BETWEEN ROBLE AND HADDON AVENUE 2-115

With the unanimous consent of the Council, the City Attorney presented a resolution requiring curbs, gutters and sidewalks on Roble and Santa Barbara Avenue under the provisions of the State Streets and Highways Code.

## RESOLUTION NO. 58-233

A RESOLUTION INSTRUCTING THE SUPERINTENDENT OF STREETS TO GIVE NOTICE REQUIRING THE CONSTRUCTION OF CURBS, GUTTERS, AND SIDEWALKS ALONG CERTAIN STREETS IN THE CITY OF MODESTO

Introduced by Hammond      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None      Absent: Robinson

APPEAL BY CHARLES D. WARNER FROM PLANNING COMMISSION DECISION RE: BUILDING LOCATED ON YOSEMITE BLVD. 2-130

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for consideration of the appeal of Charles D. Warner from the decision of the Planning Commission re: building located on Yosemite Boulevard.

The City Clerk's certification that notices had been mailed to property owners within 300 feet of the proposed variance on July 17, notices were posted in the area on July 12, a notice had been published in the Modesto Bee on July 13, and no written protests to the appeal had been received by the City Clerk as of this date, was noted by the Council.

Mayor Marks read excerpts from the Modesto City Board of Zoning Adjustment meeting of June 26 which granted the variance under the condition that Mr. Warner relocate his building at the termination of a 5 year period, and the property be conforming at that time. This is the basis upon which Mr. Warner is basing his appeal, he stated.

The City Attorney pointed out that the property could remain in its present use indefinitely if there were no structural changes.

George Smeath, Director of Planning, gave a brief resume of the action of the Board of Zoning Adjustment. He stated that the Board felt that this is a matter which should be reviewed at the end of 5 years time due to the problems and changes which might arise in that time, and that the Board did not state that the building would have to be removed, only that the property would have to revert to a conforming use.

Mr. Charles D. Warner, 1027 Yosemite Blvd., stated that a 5 year limitation under this condition would be of no help to him, as he would be

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signing away his right to stay at that location. He pointed out that he could operate with only the present building, but it would be much handier for him to have the new building because he could park his trucks off the street. He reported that the other property owners had signed a petition that they would agree to a new building at that location. He stated that he would like to have the variance in effect for as long as he and his wife individually owned the property.

The City Attorney pointed out that the problem was not in the type of building, but in the use made of the building.

Councilman Spaulding stated that the big problem in the minds of the members of the Board of Zoning Adjustment was whether or not, under the requirements of the ordinance which allows granting of variances, those conditions apply to this particular variance.

The City Attorney read the provisions of the Municipal Code which related to the granting of variances. Director of Planning Smeath noted that the Planning Commission had reviewed the provisions of non-conforming uses approximately a year ago, and the Commission had made reports and recommended that the general overall picture not be changed. The purpose of a non-conforming use was to assure that there not be unnecessary hardships caused by a strict and literal interpretation of the ordinances, but that they must be in harmony with the plan of zoning and the general public welfare. The common history has been that an individual case is always considered a hardship. He stated that variances had destroyed the purpose of zoning and that the courts had begun to crack down on the abuse of the variance and the wording of this particular variance provision was common in ordinances throughout the nation.

Director of Planning Smeath stated that the Planning Commission had reviewed this matter at the time of zoning and had recommended that the zoning change be denied. The Board of Zoning Adjustment felt that this use was not one that should permanently be located in that area. Mr. Smeath answered a question raised by Mayor Marks---that in granting variances the Board tries to stay away from the consideration that the zoning might be changed.

Cecil Jones, member of the Board of Zoning Adjustment, spoke in favor of granting the variance on the basis that it would improve the property.

#### RESOLUTION NO. 58-234

A RESOLUTION GRANTING A VARIANCE TO CHARLES D. WARNER, ET UX, FOR THE RE-LOCATION OF AN NONCONFORMING USE INTO A NEW BUILDING IN THE CITY OF MODESTO

Introduced by Hammond      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

The Council briefly discussed the general provisions of granting variances in relation to zoning. The City Attorney suggested that the Council consider the restrictive provision of the zoning regulations relating to variances which presently limits the scope of the Board of Zoning Adjustment. He commended the Board on its past course of action in granting variances.

Mayor Marks declared the hearing closed.

#### REPORT ON CITY HALL MATTERS 6-05

#### Wall mural

There was no action to be taken at this time.

Features of air-conditioning system

Director of Public Works Ray reported on one alternate considered by the architect that air conditioning be provided by the use of two wells. A water well to pump from and a well to waste water in after going through the air conditioning unit. He stated that the architect had checked this and found that the total minimum cost is estimated to be \$11,000. He estimated for comparative purposes, that a recirculating system with a cooling tower would cost about \$5,500. The architect considered that it might be anticipated that a possible later expenditure of another \$4,500 might be required for the use of a well system, he stated. The architect also suggested that bids be submitted on an alternate basis for this work. Director of Public Works Ray stated that the operational costs would be approximately the same for either system.

**MOTION**

That alternate bids be authorized for air conditioning of the new city hall building.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

General provisions of construction contract and specifications

The City Manager presented the plans and specifications of the general provisions under which the contract would be let and the work accomplished.

Director of Public Works Ray reported for Council clarification items of the general provisions as proposed by the architect; 1) the performance bond would be 100% of the contract price and another 50% of the contract price would be a labor and materials bond; 2) the City would carry fire insurance on the building as it is constructed; 3) the plans are drawn on the basis that the old M.I.D. building would be available on August 30, with a 90 day leeway, otherwise the contractor would have to be compensated for losses incurred in the completion of the parking lot.

The Public Works Director recommended that the city not carry fire and damage insurance but each contractor that is involved be required to protect his own portion and the City accept the completed project at the time it is finished. He also pointed out that the lease with the county expires on May 31, 1959, and that the building would have to be vacated immediately in order that the city hall can be completed by Dec. 31, 1959 under the present plans.

The City Manager suggested that this matter of vacation of the M.I.D. building be discussed with the County before any action is taken by the Council.

**MOTION**

That the county be notified by letter that the M.I.D. building must be vacated at the expiration of the lease on May 31, 1959.

Moved by Arata      Seconded by Merrill      Unanimously carried

**MOTION**

That the staff be authorized to proceed on the basis that each contractor would carry fire and other necessary insurance, the vacation date of the M.I.D. building would be May 31, 1959, and the performance bond to be 50% of the contract price and the labor and materials bond would also be 50% of the contract price.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

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**CONSIDER RESOLUTION ESTABLISHING BASIS FOR GRANTING VARIANCES FOR CURBS, GUTTERS AND SIDEWALKS 8-35**

The City Attorney distributed to the Council copies of a proposed resolution establishing a basis for the granting of special permission by the Council to construct sidewalks, driveways, driveway approaches, curbs and gutters of materials other than concrete.

The City Manager pointed out that the Council had indicated that the purpose for drafting this resolution was to require that the variances be based on a temporary condition and that a bond or cash deposit be required for replacement.

Following a Council discussion, it was decided not to include insurance requirements as a basis for granting variances. The City Manager stated that if there was any hazard which required special insurance now, in his judgment the City should not permit the hazard in the right of way.

Mayor Marks commented on Sec. 1 (b) "whether the proposed construction would create a potential hazard to the public". Councilman Hammond stated that if a hazard exist at the present time, then a variance should not be granted. He stated that in his opinion Section (c) of the proposed resolution should be omitted because it was confusing and too general in nature.

Councilman Adams considered that all variances should be deleted. Councilman Hammond stated that the reason for the requirement of a performance bond was to eliminate many of the requests for variances. He stated that the Council could not delete the variance because the law could not be that strict. He pointed out that the purpose of the Council was to administer the laws fairly and many unusual conditions might arise which could not be overlooked.

Councilman Adams pointed out that the Council would be judging variance requests constantly if the issue continued to be confused. He stated that a request for variance could be based on any precedent because the Council had granted so many different types. He questioned the need for any variance when the cost of a performance bond for a temporary need would cost the same as installing concrete sidewalks in the first place.

Mayor Marks stated that since Modesto is a rural community which prided itself on its yards and trees, it would not be practicable for the Council to live by the book and not grant variances.

**RESOLUTION NO. 58-235**

**A RESOLUTION ESTABLISHING THE BASIS UPON WHICH SPECIAL PERMISSION WILL BE GRANTED BY THE COUNCIL TO CONSTRUCT SIDEWALKS, DRIVEWAYS, DRIVEWAY APPROACHES, CURB OR CURB AND GUTTER WORK OF MATERIALS OTHER THAN CONCRETE**

Introduced by Hammond      Seconded by Arata  
Ayes: Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: Adams                      Absent: Robinson

**CONSIDER SPECIAL CAPITAL OUTLAY BUDGET 10-95**

The City Manager distributed work sheets for the Special Capital Outlay Budget proposed allocation for 1958-59.

Councilman Hammond questioned that the alterations to the Police building should be considered in the Capital Outlay fund. He stated that it was a building and repairs item and should be in the general fund budget.

Councilman Adams agreed that the funds were to be used in strengthening and renovating the police building which should be a maintenance item.

The City Manager pointed out that under the city accounting system it is a capital item which can be charged either to the Special Capital Outlay Fund or to the General Fund.

Councilman Arata suggested that the staff make a further study on the cost of the McHenry Avenue widening project. The City Manager stated that he was to meet with the Highway Commission on July 24 and that he would like to tell them that the funds were appropriated and that more funds would be available from the reserve.

Director of Parking and Traffic Carmody gave a brief report on the matter of traffic signals at the Modesto High School and H Street. He stated that the approximate cost of installation would be about \$3,500. He reported that the Board of Education would pay about \$2300 plus \$250 for one light, and recommended that the Council authorize the staff to proceed on this basis.

#### MOTION

That the staff be authorized to install traffic signals at "H" Street at Modesto High School and crosswalks near the High School on the basis that the Board of Education would participate in the cost.

Moved by Merrill      Seconded by Arata      Unanimously carried

The following items were approved for appropriation:

Transfer to City Hall Bond	\$72,500
Interest Redemption	
18-Hole Golf Course: Land Acquisition	40,250
18-Hole Golf Course Improvements	29,740
Kewin Park Preliminary Development	500
Further develop Whitmore Park	4,200
Ashby Park, Curbs and Gutters	2,000
Dennett Dam	65,000
McHenry Ave. Widening Project	85,000
Reconstruct I St. (10th to 14th) 17th Street (H to Eye)	21,500
2 Traffic Signals, Yosemite Blvd.	4,000
3 Traffic Signals, 9th at Tully, Kansas, P Streets	8,000
Traffic Signals, Miscellaneous	6,000
Traffic Channelization	1,000

#### RESOLUTION NO. 58-236

A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM THE SPECIAL CAPITAL OUTLAY RESERVE FOR TRANSFER TO THE 1958 CITY HALL BOND INTEREST AND REDEMPTION FUND AND APPROPRIATION THEREIN; FROM THE SPECIAL CAPITAL OUTLAY RESERVE TO CERTAIN SPECIAL PROJECTS; AND FROM THE GENERAL RESERVE TO THE POLICE DEPARTMENT FOR BUILDING ALTERATIONS.

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Introduced by Adams      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Robinson

CONSIDER MATTER OF McHENRY AVENUE IMPROVEMENTS 12-40

Three right of way contracts for widening of McHenry Avenue, which were listed by the City Manager, were presented for Council approval.

RESOLUTION NO. 58-237

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MOBESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Arata      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Robinson

The City Manager gave a brief report on the agreement with Olive M. Dennett for the improvement of McHenry Market. He stated that she was willing to begin the project of altering the market and recommended that notification be sent to her to start work within 30 days.

MOTION

That notification be sent to Mrs. Dennett to proceed with reconstruction of McHenry Avenue Market.

Moved by Spaulding      Seconded by Arata      Unanimously carried

The City Manager stated that he was going to meet with the State Highway Commission on the 24th of July and invited the Council members to attend and stated that he would report back to the Council.

CONSIDER EXEMPTION OF PROPERTY WITHIN CITY FROM TAX LEVY FOR STRUCTURAL FIRE PROTECTION OF COUNTY AREA 12-55

The City Manager stated that under state law the city could withdraw from payment of the portion of the tax the County levies to furnish structural fire protection to areas in the County. He asked for Council direction because action must be taken this year prior to the setting of the County Tax rate on Aug. 18.

Councilman Hammond stated that since the City was already in the midst of a study on the City-County fiscal relationship, that this matter be delayed, but suggested that a report on the cost be given at the next Council meeting. The Council agreed that the matter be carried over.

AUTHORIZE CITY MANAGER TO SIGN APPLICATION TO C.A.A. ON FEDERAL AID PROGRAM 12-85

Director of Public Works Ray reported on the cost of additional 13 acres land acquisition and construction of a light wind tee at the city-county airport which would cost approximately \$15,600. He stated that it had been cleared by the Board of Supervisors and recommended that an application be sent to the Civil Aeronautics Administration for Federal Aid participation.

RESOLUTION NO. 58-238

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN APPLICATION TO THE CIVIL AERONAUTICS ADMINISTRATION FOR FEDERAL AID PARTICIPATION AT MOBESTO CITY-COUNTY AIRPORT

Introduced by Hammond      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

REQUEST FOR BUDGET ADJUSTMENTS 12-90

The City Manager stated that there were four matters which require attentions: 1) maintaining disposal area and grounds in the sum of \$500, 2) additional police personnel salaries and equipment in the amount of \$18,662, 3) equipment parts for police automotive equipment \$713, and 4) Planning Department salary for part-time planning position \$4,985. He recommended appropriation of these funds for 1958-59 fiscal year.

RESOLUTION NO. 58-239

A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM THE GENERAL RESERVE TO CERTAIN EXPENDITURE ACCOUNTS IN THE PLANNING, STREETS, SERVICE AND POLICE DEPARTMENTS AND FROM EQUIPMENT RENTAL CREDITS TO CERTAIN EXPENDITURE ACCOUNTS IN THE SERVICE DIVISION

Introduced by Spaulding      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

REQUEST BY MODESTO COUNCIL OF CHURCHES FOR USE OF MANCINI BOWL FOR SUMMER SERVICES 12-110

The City Manager suggested that this request be granted on the same basis as in the past---these services would be permitted with the limitations previously approved by the Council for the use of this facility---that the services be limited primarily to music and with special attention that a portion of the program would apply to children. He recommended that permission be given to the Council of Churches for a period beginning July 27 and each Sunday of August for Sunday evening union services.

RESOLUTION NO. 58-240

A RESOLUTION GRANTING PERMISSION TO THE MODESTO COUNCIL OF CHURCHES TO USE MANCINI BOWL FOR SUMMER SERVICES UNDER CERTAIN CONDITIONS

Introduced by Spaulding      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

RESOLUTION APPROVING AGREEMENT RE: GEORGE BUMGARDNER WATER COMPANY 12-130

The City Manager listed the conditions of the agreement with the George Bumgardner Water Company under which the Company would provide fire protection facilities inside the city.

RESOLUTION NO. 58-241

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND GEORGE BUMGARDNER WATER COMPANY FOR FIRE PROTECTION FACILITIES TO BE INSTALLED INSIDE THE CITY OF MODESTO

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

SET DATE FOR HEARING ON PROPOSED CHANGE OF ZONE ON TULLY ROAD (Mazoros) 13-10

Resolution No. 450 of the Planning Commission adopted July 15, 1958, recommending that the Council amend the Municipal Code relating to the zoning

regulations for property owned by Thelma Mazores located in the east side of Tully road between Fremont School and the alley north of College Court was noted by the Council.

Mayor Marks suggested that the date of Aug. 20, 1958, at 5:00 P.M. in the Council Chamber be set as the time and place for this public hearing on the proposed amendment.

**RESOLUTION NO. 58-242**

**A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING BEFORE THE COUNCIL OF THE CITY OF MODESTO ON A PROPOSED AMENDMENT TO SECTION 20 OF THE ZONING MAP (Thelma Mazores)**

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Robinson

**DISCUSS STREET IMPROVEMENT REQUIREMENTS - NORTH PARK SUBDIVISION 13-18**

Director of Planning Smeath reviewed the recommendation of the Planning Commission on the granting of an exception to the Subdivision Regulations which would provide that the subdivider of North Park Subdivision, which is a loop-street subdivision on Ronald Avenue west of Tully road, north of the M.I.D. lateral No. 3, be exempted from requirement to put in street improvements on Northern Boulevard. Mr. Smeath pointed out that the subdivider dedicated the land to the City for street improvements later. Part of the agreement of this subdivision is that there will be deed covenants go with the subdivision which will prevent any vehicular access to Briggsmore Avenue from the subdivision, he stated.

**RESOLUTION NO. 58-243**

**A RESOLUTION AUTHORIZING THE PLANNING COMMISSION TO GRANT AN EXEMPTION TO THE REQUIREMENT OF STREET IMPROVEMENTS TO THE NORTH PARK SUBDIVISION TO THE EXTENT OF RELIEVING THE SUBDIVIDER FROM THE REQUIREMENT TO IMPROVE BRIGGSMORE AVENUE WHERE IT ABUTS NORTH PARK SUBDIVISION ON THE BASIS AS RECOMMENDED BY THE PLANNING COMMISSION**

Introduced by Hammond      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Robinson

**APPROVE FINAL MAP OF NORTHGATE SUBDIVISION NO. 2 13-45**

City Attorney Grimes stated that a resolution was required to approve the final map and authorize agreement relating to the improvement to have a check payable to the City in the sum of \$512.20 and a bond in the sum of \$25,500 to guarantee the improvements.

**RESOLUTION NO. 58-244**

**A RESOLUTION APPROVING THE FINAL MAP OF THE NORTHGATE SUBDIVISION NO. 2 OF THE CITY OF MODESTO**

Introduced by Hammond      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Spaulding, Merrill, Mayor Marks  
 Noes: None                  Absent: Robinson

**CONSIDER IMPROVEMENT DISTRICT NO. 7 13-59**

**RESOLUTION NO. 916-S.P.**

**A RESOLUTION OF PRELIMINARY DETERMINATION THAT THE PUBLIC CONVENIENCE AND**

NECESSITY REQUIRE THE CONSTRUCTION OF WORK AND IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 7, CITY OF MODESTO, STANISLAUS COUNTY, CALIFORNIA, DESCRIBING SAID PROPOSED WORK AND IMPROVEMENTS AND SETTING A TIME AND PLACE OF HEARING THEREON

Introduced by Hammond      Seconded by Spaulding  
 Noes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

The time set for the hearing was Aug. 20, 1958 at 4:00 P.M.

RESOLUTION NO. 917-S.P.

A RESOLUTION DIRECTING PREPARATION OF PLANS AND SPECIFICATIONS

Introduced by Merrill      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson  
 Director of Public Works Ray presented the plans and specifications for approval.  
 RESOLUTION NO. 918-S.P.

A RESOLUTION ADOPTING PLANS AND SPECIFICATIONS

Introduced by Hammond      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

RESOLUTION NO. 919-S.P.  
 RESOLUTION OF INTENTION NO. 263

A RESOLUTION OF INTENTION IN THE MATTER OF THE CONSTRUCTION OF WORK AND IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 7, CITY OF MODESTO, STANISLAUS COUNTY, CALIFORNIA

Introduced by Hammond      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

REPORT ON FIRE ALARM TO SERVE CALIFORNIA VEG. CONCENTRATES IN SOUTH MODESTO INDUSTRIAL TRACT 13-79

City Manager Miller suggested that the most feasible way to furnish the line for this alarm would be to let the Telephone Company install it and pay the cost of installation of \$14 and upkeep of \$14 a month thereafter. The City would furnish the other facilities.

MOTION

That the staff be authorized to have the fire alarm system installed on this basis.

Moved by Arata      Seconded by Hammond      Unanimously carried

DISCUSS PROPOSITION NO. 17 ON NOVEMBER ELECTION BALLOT 13-95

After a general Council discussion it was decided to have this matter placed on the agenda for the Council meeting of Aug. 6.

REPORT ON USE OF COUNTY DISPOSAL AREA 13-130

The City Manager reported that the County had resumed use of their disposal area and would have no further use of the City's garbage disposal area at the Sewage Treatment Plant.

REPORT ON INDUSTRIAL DEPARTMENT AND COMMITTEE OF CHAMBER OF COMMERCE 13-131

The City Manager distributed copies of the annual report of the Industrial Department and Committee of the Chamber of Commerce and suggested that a letter be sent commending Mr. Peterson, the Director, for his help.

## MOTION

That a letter of commendation be sent by Mayor Marks to Mr. H. A. Peterson, Director of the Committee, for his fine job of organizing a program of promotion for development in Modesto.

Moved by Hammond    Seconded by Mayor Marks    Unanimously carried

PROGRESS REPORT ON REVISION OF POLICE FILES 14-10

Police Chief Bowers gave a brief report on the centralization of the police records. He stated that by employing a new system of filing at a cost of \$60, the Police Department will be able to recover about \$1500 worth of filing cabinets.

The City Manager invited the Council to see the new system of open shelf filing now in operation in the Police Department.

CITY CLERK REQUEST ANNUAL VACATION 14-20

## MOTION

That permission be granted City Clerk Gailfus to start his annual vacation on Aug. 4, 1958.

Moved by Arata    Seconded by Spaulding    Unanimously carried

CITY MANAGER REQUEST TO BE ABSENT FROM CITY STARTING JULY 28 14-30

## MOTION

That permission be granted for the City Manager to be absent from the City for part of his vacation starting July 28, 1958.

Moved by Adams    Seconded by Spaulding    Unanimously carried

CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS 14-38

The matter of appointments to Boards and Commission was ordered held over to the Aug. 6 meeting.

ADJOURNMENT

## MOTION

That the Council meeting now in session be adjourned.

Moved by Adams    Seconded by Arata    Unanimously carried

The meeting was adjourned at 10:50 P.M.

ATTEST:

*Ray E. Gailfus*  
CITY CLERK

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The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The Acting City Clerk called the roll and there were

Present: Councilmen: Arata, Merrill, Robinson, Mayor Marks

Absent: Councilmen: Adams, Hammond, Spaulding

Councilman Adams arrived at the meeting at 4:20 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Hartzell Cobbs gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of July 9, and the same being available for public inspection and there being no objections, the minutes were approved.

#### PETITION FROM CALIFORNIA PROPERTY OWNERS REQUESTING IMPROVEMENT OF STREET 1-11

The petition filed with the City Clerk on July 28 by C. L. Bass, signed by 37 persons, requesting improvement of California Avenue was considered by the Council and referred to the City Manager for study and report to the Council.

#### LETTER FROM CHRIS BOSS RE: BUSINESS LICENSE FEES 1-29

A letter from Chris Boss was read requesting that the business license registration fee of \$50 for outside business concerns be reduced. The letter was referred by Mayor Marks to the City Manager for study and report.

#### LETTER FROM EDWARD ARPS RE: FINANCING 1-35

The letter was ordered referred to the City Attorney for reply by Mayor Marks.

#### LETTER FROM E. W. HANE, CHIEF ADMINISTRATIVE OFFICER STANISLAUS COUNTY 1-50

The letter in reply to the Mayor's relating to the County vacating the old Modesto Irrigation District building upon expiration of its lease, was read.

Mr. Hane stated that the Board of Supervisors wished to cooperate in every possible way with the city in its building program for the city hall and asked that the City Council take cognizance of the problems confronting the County. As it now appears, he stated, this vacation would cause the county great expense and necessitate removing the Municipal Courts to a point some distance from the city resulting in inconvenience to city residents. He asked the city to join with the county in seeking some more satisfactory solution.

It was suggested that the city could ascertain the extra costs by having two alternate bids, one which would coincide with the expiration date of the lease and the other to coincide with the date when the county believes it will be able to get out of the building.

LETTER FROM STANISLAUS COUNTY VETERAN SERVICE OFFICE RE: COUNCIL SUPPORT ON PROPOSITION NO. 1 1-92

The letter was read and ordered held over for further study. The City Clerk was asked to send copies of the communication to the Council members and City Attorney.

LETTER FROM MAYOR J. M. MONACO 1-105

Letters from Mayor J. M. Monaco of Bento Goncalves, Brazil to Mayor Marks and City Manager Miller expressing appreciation for hospitality extended on his recent visit to Modesto, were read.

OFFER OF STONE & YOUNGBERG FOR SERVICES TO CITY ON STUDY ON PRIVATE WATER COMPANIES IN CITY 1-121

The letter was read and the City Clerk was directed to notify the company that at the present time the city had no need for these services.

LETTER FROM CITY EMPLOYEES' ASSOCIATION REGARDING SALARY MATTERS 1-127

Jim Puckett, representing the city employees, presented a statement relating to salary matters and read it into the record of the meeting, a copy of which is on file in the office of the City Clerk.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR CONSTRUCTION OF CONCRETE CURB AND GUTTER IN ASHBY PARK 2-40

## RESOLUTION NO. 58-245

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF CONCRETE CURB AND GUTTER IN ASHBY PARK

Introduced by Robinson Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None Absent: Hammond and Spaulding

The time set for the bid opening was 2:15 P.M. August 18, 1958  
APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR IMPROVEMENT OF L AND SEVENTEENTH STREETS 2-52

## RESOLUTION NO. 58-246

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE IMPROVEMENTS TO L STREET FROM TENTH STREET TO FOURTEENTH STREET AND IMPROVEMENTS TO SEVENTEENTH STREET FROM H STREET TO I STREET

Introduced by Adams Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None Absent: Hammond, Spaulding

The time set for the bid opening was 2:00 P.M. August 18, 1958  
ACCEPT BID OF STANDARD MATERIALS INC. FOR IMPROVEMENT OF LA LOMA 2-60

## RESOLUTION NO. 58-247

A RESOLUTION ACCEPTING THE BID OF STANDARD MATERIALS, INC. FOR THE IMPROVEMENT OF LA LOMA, BETWEEN NORTH SANTA ROSA AVENUE AND YOSEMITE BOULEVARD IN THE SUM OF \$21,841.40.

Introduced by Merrill Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None Absent: Hammond, Spaulding

ACCEPT BID OF STANDARD MATERIALS INC. FOR IMPROVEMENT OF GRANGER AVENUE 2-61

RESOLUTION NO. 58-248

A RESOLUTION ACCEPTING THE BID OF \$25,720.50 FROM STANDARD MATERIALS, INC. FOR THE IMPROVEMENT OF GRANGER AVENUE BETWEEN TIDEWATER SOUTHERN RAILROAD TRACKS AND TULLY ROAD

Introduced by Robinson      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

ACCEPT INFORMAL BID FOR PALMYRA FIBER AND GUTTER BROOM WIRE 2-62

The City Manager reported that informal bids had been obtained by the Finance Department for the furnishing of 26 inch Palmyra fiber and gutter broom wire. Since the amounts exceeded \$1500, the purchase must be authorized by the Council.

RESOLUTION NO. 58-249

A RESOLUTION ACCEPTING INFORMAL BIDS OF ORIENTAL AGENCY AND TRADING POST AND AMERICAN PUSH BROOM COMPANY FOR THE FURNISHING OF PALMYRA FIBER AND GUTTER BROOM WIRE

Introduced by Arata      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

FINAL ADOPTION OF ORDINANCE NO. 250-C.S. AMEND BUSINESS LICENSE ORDINANCE RELATING TO PRIVATE POLICE PATROL SERVICE AND DETECTIVE AGENCIES 2-70

ORDINANCE NO. 250-C.S. entitled

"AN ORDINANCE REPEALING SECTION 6-8.103 OF ARTICLE I OF CHAPTER 8 OF TITLE VI AND SECTION 6-8.203 OF ARTICLE 2 OF CHAPTER 8 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO LICENSING OF PRIVATE POLICE PATROL SERVICE AND DETECTIVE AGENCIES"

introduced on March 28, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

RESOLUTION URGING THE LEAGUE TO PREPARE AND SUPPORT STATE LEGISLATION PROVIDING FOR ALLOCATION OF FEDERAL-AID URBAN MONEY TO CITIES 2-75

Copies of resolutions adopted by the Cities of Fresno and Stockton urging the League of California Cities to prepare state legislation providing for allocation of federal-aid urban money to cities, were noted by the Council.

The City Manager stated that, pursuant to Council direction, a resolution had been prepared by the staff for Council consideration. He reported on the allocation of funds which indicated that the County of Stanislaus received approximately \$1,000,000 for the past fiscal year from the state for road purposes and the City of Modesto approximately \$100,000. On a population basis one fourth of the county population resides in the City of Modesto with the highest traffic volumes.

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The League report, the City Manager stated, indicated that this matter had been before the Highway Committee. The Clerk was directed to send a copy of this report to the Council members.

RESOLUTION NO. 58-250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO URGING THE LEAGUE OF CALIFORNIA CITIES TO PREPARE AND SUPPORT STATE LEGISLATION PROVIDING FOR ALLOCATION OF FEDERAL AID URBAN MONEY TO CITIES

Introduced by Mayor Marks                      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None                                      Absent: Hammond, Spaulding

INFORMAL HEARING ON CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS ALONG ROBLE AND SANTA BARBARA AVENUES (MUTH) 2-120

Mayor Marks announced that the hour of 4:30 P.M. had arrived, the time set for the hearing on the protests raised by property owner or other interested persons relating to the construction of concrete curbs and gutters along the street frontage abutting the south side of Roble Avenue between Santa Barbara Avenue and North Santa Ana Avenue and concrete curbs, gutters and sidewalks along the street frontage abutting the west side of Santa Barbara Avenue between Roble Avenue and Haddon Avenue.

The City Clerk reported that no written protests to the proposed work had been filed; that the owner of record (Muth) of the following described property had been notified of the hearing:

The South 34.95' of the East half of Lot 2, and the  
North 24.05' of the East half of Lot 3 of Wilson School Tract

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No protests were filed or comments made.

Mayor Marks declared the hearing closed.

The Acting City Attorney stated that the city could now proceed with the work, as provided in Chapter 27, Part 3, Division 7 of the Streets and Highways Code of the State of California and set forth in Resolution No. 58-233 of the City Council.

The City Manager stated that if additional action was required by the Council, the necessary documents would be prepared and presented later.

RESOLUTION REQUESTING THE COUNTY TO EXCLUDE PROPERTY IN THE CITY OF MODESTO FROM COUNTY TAX LEVY FOR SUPPORT OF FIRE PROTECTION IN THE COUNTY 3-1

The City Manager reported, as directed by the Council, on the savings to the residents of the City if the Council would request the Board of Supervisors to exclude property in the city from county tax levy for support of fire protection in the county, which would be possible under provisions of Government Code, Section 25643.

RESOLUTION NO. 58-251

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO PETITIONING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO EXCLUDE ALL PROPERTY WITHIN THE INCORPORATED LIMITS OF SAID CITY FROM COUNTY TAX LEVY FOR SUPPORT OF FIRE PROTECTION IN THE COUNTY PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 25643

Introduced by Arata                      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None                                      Absent: Hammond, Spaulding

The City Manager pointed out this would not affect the city's mutual aid fire protection.

REPORT ON PROVISION OF MUNICIPAL CODE RELATING TO LOCKING OF VEHICLES WHILE PARKED ON PUBLIC PROPERTY 3-63

The City Manager reported that pursuant to Council direction the staff had checked out the possible bearing of the provision of the Municipal Code relating to locking of vehicles upon insurance or civil liability. He stated that the City Attorney had recommended that to clear this question the following provision should be included in the Municipal Code:

Any violation of the provisions of this section shall not mitigate the offense of stealing such motor vehicle nor shall such violation be used to effect a recovery in any civil action for theft of such motor vehicle, or the insurance thereon, or have any other bearing in any civil action.

The report from Police Chief Bowers, copies of which had previously been distributed to the Council members, was noted.

MOTION

That the City Attorney be directed to draft an ordinance amending the Municipal Code to include the above provision.

Moved by Robinson      Seconded by Arata      Unanimously carried

SET DATE OF AUGUST 20, AT 4:15 P.M. FOR HEARING ON PROTESTS TO CONSTRUCTION OF SIDEWALK ON SYCAMORE AVENUE IN FRONT OF CLARA HOLMES PROPERTY 3-75

RESOLUTION NO. 58-252

A RESOLUTION INSTRUCTING THE SUPERINTENDENT OF STREETS TO GIVE NOTICE REQUIRING CONSTRUCTION OF A CONCRETE SIDEWALK ON SYCAMORE AVENUE BETWEEN ROSEBURG AND ORANGEBURG AVENUES IN THE CITY OF MODESTO

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

CLEAR COUNCIL DESIRES RE: ATTENDANCE OF REPRESENTATIVE OF KROEGER & ASSOCIATES TO COUNCIL MEETING WHEN SALARY MATTERS ARE CONSIDERED 3-85

The Council determined that it would not be necessary for a representative of Kroeger & Associates to be present at the August 20th Council meeting when salary matters are to be considered.

STAFF TO PREPARE ORDINANCE APPROPRIATING FUNDS TO COVER ACCRUED INTEREST AND PREMIUM RECEIVED ON SALE OF CITY HALL BONDS 3-91

The City Manager stated the staff would prepare for Council consideration the necessary documents to appropriate revenue received in connection with the sale of city hall bonds.

FINAL OPINION FROM ORRICK, DAHLQUIST, HARRINGTON & SUTCLIFFE ON CITY HALL BONDS 3-110

A letter setting forth the firm's final opinion on the city hall bonds was briefed by the City Manager. The letter was ordered filed.

APPROVE REVISED LEASE AGREEMENT FOR OFFICE SPACE FOR CITY ATTORNEY 3-126

Terms of the revised lease agreement between the city and Carl W. &

Dora Shannon on the City Attorney's office regarding the additional office space needed by the City Attorney was briefed by the City Manager.

RESOLUTION NO. 58-253

A RESOLUTION APPROVING REVISED LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND D. E. SHANNON AND CARL W. SHANNON FOR THE RENTAL OF OFFICE SPACE FOR THE CITY ATTORNEY

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

FINAL PLANS FOR CITY HALL RECEIVED FROM ARCHITECT MILTON T. PFLUEGER 4-05

The City Manager reported receipt of the final plans and specifications from Milton T. Pflueger, Architect, this date via Greyhound Bus.

The City Manager suggested the Council consider use of a portable screen and map case. He reported that suggestions on the preliminary final plans which had been raised by the various Council members in informal discussions in his office had already been forwarded to the architect. He suggested that this Council meeting be adjourned to an acceptable time to meet with Mr. Pflueger and his engineering representatives to discuss the plans and specifications. He invited the members to visit his office prior to this meeting for further study of the plans.

REPORT BY DIRECTOR OF PARKS AND RECREATION ON CONDITIONS IN CITY PARKS RAISED IN RECENT NEWSPAPER ARTICLE 4-76

The City Manager noted that the city had recently received some unfavorable publicity in the Modesto Bee about the condition of one of the city parks which had been reported by an Editor in Nebraska.

He stated that he had asked Director of Parks and Recreation Lowrey to review these problems with the Council. He suggested that a reply be sent to the Nebraska Editor.

Mr. Lowrey reported that although the criticism did not state the name of the park, the matters raised seemed to indicate that the Westside Park was the park in question. He stated that only two of the four matters raised were valid criticism, 1) condition of the rest rooms and 2) condition of the litter around the park. On the other matters, 1) the pools were closed and 2) the bath house being locked up, was standard city practice for safety reasons to close the wading pools in all parks at 6 P.M. Monday through Saturday when the supervisor is off duty.

He stated that recently when the old lily pond had been filled in at the Westside Park and planted as a flower bed, the shrubs had been trampled down and new young trees destroyed. He recommended this area be completely filled in, leveled over and planted to lawn to conform with the present park area.

Litter

It seems to be the habitual practice of some people to fail to deposit their litter in garbage cans regardless of the number available. Many times when the parks are full of litter it is found that the garbage cans are almost empty. The number of available cans is almost all city parks has been doubled during the past two years. The city has contracted for garbage pick-up service three times a week during the summer months and in addition the city collects several times during the week. In addition the cans are cleared and all of the rest rooms cleaned again on Saturday and Sunday.

Condition of restrooms: Those in the older parks are old and inadequate for present use. One solution would be to replace these but even this would not solve all the problems. Already in the new restrooms built in J. M. Pike and John Muir Parks, things have happened which cannot be told at this public meeting. Twenty-four man days have been spent in the past six months in major repairs in the Westside Park restrooms, but an attempt was made to burn down the rest rooms and one stool has been shattered by a "cherry bomb".

Equipment: 90% of all of the playground equipment in city parks is brand new equipment. Some benches and tables need maintenance or replacement.

Maintenance of parks: At the present time the city is running a crew of two men approximately 4 to 6 hours a day on week ends to clean up restrooms and pick up the major trash. Mr. Lowrey stated that he inspected the parks on Sundays and Foreman Dwight Long on Saturdays and found that two hours after the city men left the parks, they look like they haven't been touched. The city is now proposing to put on 3 men, 6 hours on Saturday and Sunday to try to do a better job. The present crews are spread very thin and it is almost impossible to spread them any thinner.

Comments made by Council members:

Councilman Merrill considered the playground equipment and number of garbage cans in Westside Park adequate but that some of the benches needed paint. The condition of the restrooms at Westside Park was bad. Mr. Lowrey pointed out that there was a need for some replacements and these had been included in the Capital Improvement budget.

Mayor Marks pointed out that if a policeman was placed at the parks it would be questionable if the economic return would be consistent with the cost. He suggested the placing of a sign advising the public that this was their property.

At the request of the City Manager, Mr. Lowrey cited instances of malicious destruction in the restrooms, which involved the placing of baseball bats, rocks and debris in the vents and broken glass and whisky bottles, etc. in the stools. He suggested that patrolmen be required to give special attention to the parks during the day and night to decrease the incidents of malicious mischief.

Councilman Arata suggested that the wading pools be kept open during the early evening hours to accommodate evening picnic parties. Mr. Lowrey stated that the Recreation Supervisor could be started later in the day if there was a demand. He pointed out that the park attendants must start early in the morning to complete the watering before the parks are being used by the public. Consideration has been given to watering the parks at night but this would eliminate the accomplishing by the same men of other routine jobs which can be done during the daytime while watering, such as cleaning restrooms, weeding, hoeing, etc.

The City Manager pointed out that it might be worth while to place one additional employee in each park. The Council suggested that a staff study be made on this problem.

Dwight Long, Parks Foreman, spoke briefly on his first hand experience in the operation of the parks. He pointed out that the large increase in the use of the city's parks increased the problems. He stated that parents were leaving their children at the parks all day instead of hiring someone to watch them while they worked. He considered that the facilities at the Westside Park were inadequate for the number of persons now using it.

The City Manager pointed out that the city has been giving high priority to funds to acquire land for needed new parks before it could be developed for other purposes "the land won't wait". As these are developed some of the pressure will be removed from the older developed parks.

Mayor Marks suggested that the city should discontinue acquiring land and use its funds for acquiring park equipment and upkeep. He asked for a staff report on the matters discussed.

The City Manager noted that copies of an article appearing in the San Francisco Chronicle of July 24, on the subject of "We are Running out of Recreation Areas" had been distributed to each Council member.

RESOLUTION NO. 58-254

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$17,400 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL PROJECTS

Moved by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks

The transfer provided for the following general parks improvements:

Playground equipment	\$ 750
Restroom Beard Brook	6,500
Restroom Westside Park	6,000
Curb & Gutter, Pike	2,250
Bleachers, Graceada	1,100
Chain Link Fence, T. B. Scott	800

The City Manager reported that he presented a list of additional park improvements proposed for this year:

Kewin Park development      \$ 500  
Further develop Whitmore Park and Curb and Gutter, Ashby Park \$2,000 had been previously cleared by Council action.

The City Manager reported that the Chain Link Fence was being proposed at the T. B. Scott Park on the basis that it would be constructed if the installation cost were shared by the adjacent owners (Cemetery Association)

Mr. Lowrey reported that it was tentatively proposed for next year's budget to include \$8,000 for repairs to the Legion Park restroom and dressing room as the construction of Dennett Dam would increase the use of the park materially.

The City Manager was asked to summarize the Special Capital Outlay Fund Budget for further Council consideration.

PROGRESS REPORT ON THE GOLF COURSE 6-120

Mayor Marks noted that the Council members had received copies of the correspondence between the City Manager and Horace Dryden relating to the progress of the Dryden Park Municipal Golf Course.

The City Manager displayed a sketch of a tentative proposal to rearrange the road into the park and reviewed it with the Council.

MOTION

That the staff be authorized to work out arrangements with Mr. Dryden on a more detailed basis along the lines shown on the sketch.

Moved by Mayor Marks      Seconded by Arata      Unanimously carried

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REQUEST OF MERCHANTS ASSOCIATION FOR FUNDS TO BE USED FOR CHRISTMAS DECORATIONS FOR THE DOWNTOWN AREA 7-01

A. A. Hamaway, representing the Downtown Merchants Association, appeared before the Council and requested an appropriation of \$8,000 to the Association for the purchase of Christmas Street decorations for the downtown area. He reported that these merchants had contributed during the past year, \$58,040, to the city in taxes and license fee. He filed copies of the Association's financial statement as of this date. The need for the additional funds was due to the fact that the state law prohibits the use of the present decorations. An additional sum of \$11,000 will be needed for the purchase of new decorations but \$3,000 of this amount was previously collected by the merchants. He pointed out that the membership campaign and drive for funds had been unsuccessful. He reminded the Council that when the business license ordinance had been introduced in 1935 that there had been an informal arrangement between the city and the merchants for the allocation of a certain percentage of the registration fee paid by all licensed merchants for the upkeep of the downtown area, through the Chamber of Commerce.

Mayor Marks pointed out that 1) it might be possible to assess the merchants on a front foot basis for the cost of the decorations, as other cities are now doing and 2) that due to the increased license fees to be paid by the downtown merchants under the new license ordinance, the request might merit favorable Council consideration. He pointed out that the Council represented all the taxpayers in the city and not just the downtown area merchants. Merchants in other shopping areas will have to be considered when a decision is made on the request.

Fred LaValley and Morey Applebaum, members of the Association, also spoke on behalf of the request.

The City Manager was directed to confer with the Association representatives to work out some plan for Council consideration at its next meeting so that a deadline established by the company manufacturing the decorations could be met by the Association.

Mayor Marks asked that the Council consider this request very favorably, in view of the matters which he had raised.

**MOTION**

That the City Manager be authorized to confer with the Association representatives and to determine if there is any way within the frame work of the law whereby the Council can, if it desires, contribute funds for Christmas decorations.

Moved by Arata                      Seconded by Adams                      Unanimously carried

Mayor Marks pointed out that any informal arrangements for allocating funds to the Merchants' Association, when the ordinance was first adopted, would have no bearing on the present situation.

DISCUSSION OF PROPOSED EXTENSION OF HIGHWAY TO YOSEMITE PARK 8-92

Ed Andrews, Henry Zimmerman and Jim Rice, members of the Northern California-Yosemite Highway Association, Inc., appeared before the Council and spoke on behalf of the Association, outlining the progress being made on the completion of the final link in the Old Coulterville Road to Yosemite Park. They outlined the advantages for the City of Modesto 1) it would be the shortest and most scenic road to the park, 2) it would put Modesto on the map as a gateway to Yosemite, 3) it would open up a beautiful recreational mountain area and 4) the increased tourist trade and the expansion of the trading area would mean increased growth and prosperity for the City.

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Mr. Rice asked the Council to consider allocating funds to assure the completion of the road.

Mr. Zimmerman stated that this project had far greater value to the people of Modesto than the Tuolumne River project. Funds expended for the project would be returned to the city many times by the purchases of the tourist going through the city, he contended.

RESOLUTION NO. 58-255

A RESOLUTION ENDORSING AND RECOMMENDING A SHORT LOW LEVEL ROAD TO YOSEMITE NATIONAL PARK THROUGH MODESTO, CALIFORNIA

Introduced by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Hammond, Spaulding

The City Manager reported that the city had assisted the organization on a minor basis with staff assistance in assembling reports and information.

MOTION

That the City Attorney be directed to investigate and report on the question of whether the city can legally allocate funds for projects located outside the city and county.

Moved by Arata      Seconded by Merrill      Unanimously carried

ACCEPT IMPROVEMENT OF STREETS HELD OVER 10-80

Director of Public Works Ray asked that the acceptance of the improvements of 8th Street from Washington to L Street and of G Street from 14th to Burney from the contractor, Standard Materials, Inc. be held over for further clearance. It was so ordered by Mayor Marks.

ACCEPT CONSTRUCTION OF EQUIPMENT BUILDING AT CORPORATION YARD 10-82

RESOLUTION NO. 58-256

A RESOLUTION ACCEPTING THE CONSTRUCTION OF EQUIPMENT GARAGE AT CITY CORPORATION YARD BY EDWARD A. TOMLINSON; AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Hammond, Spaulding

ACCEPT STREETS AND ALLEYS AND EASEMENTS - UCCELLO MANOR TRACT FOR MAINTENANCE 10-85

The City Manager reported that Uccello Manor had been developed in the county and later annexed to the city, similar to many other subdivisions. The Veteran's Administration will not make a loan on a home in these areas unless there is a special recorded resolution accepting the streets. Other federal agencies do not require this. He recommended that in order not to delay this loan that a special resolution be adopted at this time but that the staff be directed to write to this agency or the League of California Cities asking that this "red tape" be eliminated.

RESOLUTION NO. 58-257

A RESOLUTION ACCEPTING THE STREETS AND ALLEYS AND EASEMENTS AS SHOWN ON THE FINAL MAP OF THE UCCELLO MANOR TRACT ON BEHALF OF THE PUBLIC FOR PUBLIC USE.

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

## MOTION

That the staff be authorized to refer the problem to the League

Moved by Arata              Seconded by Merrill      Unanimously carried

APPROVE SUPPLEMENTAL AGREEMENT WITH THE STATE ON WALK-WAIT SIGNALS AT 11th AND J STREETS 10-110

The City Manager reported that the cost for installation of these signals had exceeded the amount estimated and a supplemental agreement to cover the additional costs would be needed.

## RESOLUTION NO. 58-258

A RESOLUTION APPROVING SUPPLEMENTAL AGREEMENT WITH THE STATE OF CALIFORNIA FOR THE INSTALLATION OF WALK-WAIT PEDESTRIAN SIGNALS AT THE INTERSECTION OF J STREET (X-STA-109-MOD) AND IITH STREET IN THE CITY OF MODESTO

Introduced by Adams      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

DISCUSS PROPOSAL FOR REMOVAL OF DEPOSITS FOR CURB CUT REPLACEMENT 10-114

The City Manager reported that the ordinance requiring a person to file a deposit fee with the city for curb cut replacement in industrial or commerical areas had been in effect for many years. The problem is that in many cases these curbs are never replaced, and in many instances ownership of property has changed hands. He suggested that the ordinance be amended to provide that when the use of a curb cut is abandoned by the property owner that they be required to replace it. There are many instances where the deposit required is hampering improvements which would otherwise be made in the city and creating problems in the acquisition of rights of way. Many cities do not require this type of replacement deposit. He asked for Council guidance and was instructed to continue the study along these lines and make a further report on the matter.

ACCEPT RIGHT OF WAY AGREEMENTS FOR WIDENING OF MCHENRY AVENUE 11-20 (Galas-Sheerr and Greene)

## RESOLUTION NO. 58-259

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Arata      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

PROPOSITION NO. 17 - SALES TAX CHANGE FOR NOVEMBER ELECTION 11-22

Copies of an article which had appeared in the Modesto Bee on July 22, 1958, reporting conclusions of the State Director of Finance relating to the effect on state financing if Proposition No. 17 relating to the reduction of sales tax was approved by the voters at the November election was discussed.

Mayor Marks recommended that the City of Modesto go on record as opposing this proposition on the basis that it would reduce the state's

income to the extent that it would be possible to "break the back" of the small home owner by the increasing of ad-valorem taxes.

Mayor Marks was authorized to draft a statement for approval by the Council setting forth its position in the matter for release to the public as soon as possible.

REPORT ON COST OF FIVE GALLON PAINT SHAKER 11-70

The City Manager reported, as directed by the Council, on the cost of acquiring a five gallon paint shaker to be used in the Parking and Traffic Department. Copies of the informal bids received were distributed to the Council members. The total cost of a "Red Devil" machine including timer which is recommended by Mr. Carmody would be approximately \$405.

MOTION

That the purchase of this machine be approved.

Moved by Merrill      Seconded by Arata      Unanimously carried

PROGRESS REPORT ON MCHENRY AVENUE WIDENING 11-82

The City Manager reported on his meeting with the State Highway Commission to discuss the progress being made in the McHenry Avenue widening project. The cooperative aspect of the project was stressed, he stated. While the Commission could not assure funds would be available at this time, the Commission commended the City on the record of acquisition to date and one of the members urged the city to continue its program for obtaining rights of way. The actual remodeling of the McHenry Avenue Market has helped to convince the remaining property owners, who had not yet deeded the rights of way, that the project is now underway.

He reported that the contractor remodeling the Market had removed the stone planter in front of the adjoining Drug Store without cost to the City.

RESOLUTION APPROVING THE DESTRUCTION OF POLICE RECORDS 11-110

RESOLUTION NO. 58-260

A RESOLUTION AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS

Introduced by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

REPORT FROM CHAMBER OF COMMERCE 11-116

The quarterly report covering months of April, May and June, 1958 required by the contract between the city and the Modesto Chamber of Commerce was noted, found to be in order and ordered filed.

REAPPOINTMENT OF MEMBERS ON INDUSTRIAL COMMITTEE 11-118

MOTION

That Councilman Arata and Hammond be reappointed as members of the Industrial Committee.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

REPORT ON ASSESSMENT OF POSSESSORY INTEREST OF LESSEE OF CITY PROPERTY 11-121

The City Manager reported that pursuant to Section 107 of the Revenue

and Taxation Code, the County Assessor is required by law to assess the possessory interest of a lessee of buildings owned by the City. A number of persons now leasing city property are confronted with the payment of unanticipated taxes, since the leases were executed on the basis that the taxes would be paid by the owner. He suggested that these taxes be credited against the rental payments due under the leases.

MOTION

That the Council indicates its position - the city will make adjustments to compensate for the possessory interest taxes of the lessees on such city owned property.

Moved by Arata                      Seconded by Robinson                      Unanimously carried

REPORT ON CIVIL DEFENSE 12-23

The City Manager reported that Congress had recently created an Office of Defense and Civilian Mobilization in the Cabinet. Civil Defense Bill, H.R. 7576 makes civil defense a joint responsibility of federal and state governments. There is legislation proposed which will assist cities with the administrative costs of operation of local civil defense and disaster groups. He reported that a meeting was being scheduled at Fresno on August 8 and urged the Council members to plan to attend the meeting. A staff member will also attend, he stated.

REPORT ON STATE HIGHWAYS IN COUNTY 11-36

The City Manager displayed a report filed by the Stanislaus County Highway Advisory Committee, entitled "Construction Program for State Highways in Stanislaus County, 1959-60 Budget".

REPORT ON ACQUISITIONS FOR YOSEMITE BOULEVARD SIGNALS 12-40

The City Manager reported that the two property owners on Yosemite Boulevard were withholding rights of way for installing traffic signals on various intersections because of the fact they were confronted with paying the city a large replacement curb cut fee. If this ordinance was amended to do away with this deposit as previously discussed in this meeting, these rights of way can probably be cleared. If the rights of way cannot be cleared, he would recommend that the Council order condemnation proceedings in order to get the necessary rights of way so that the much needed traffic signals can be installed.

Mayor Marks asked that the staff clear the matters with the property owners and make a report.

CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS 12-55

Mayor Marks asked the members to be considering appointments for the Board of Zoning Adjustment and Personnel Commission during the week so that appointments could be made at the next meeting.

ADJOURN MEETING TO TUESDAY, AUGUST 12 12-70

MOTION

That the Council meeting be adjourned until Tuesday, August 12 at 4:00 P.M. to consider final plans and specifications on the city hall.

Moved by Arata                      Seconded by Merrill                      Unanimously carried

ATTEST: Gene M. Carlson  
Acting City Clerk

8-6-58

Page 13

The Council of the City of Modesto met in special session this date at 4:30 P.M., as provided by Section 2-1.02 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets. The meeting was called by Mayor Marks to "review and take action on the city hall plans and specifications".

Due to the absence of Mayor Marks and Vice Mayor Hammond, as provided by Section 2-1.05 of the Code, Acting City Clerk Collins called the meeting to order and called the roll.

Present: Councilmen: Adams, Arata, Merrill Spaulding  
Absent: Councilmen: Hammond, Robinson and Mayor Marks

MOTION

That Councilman Merrill act as temporary chairman

Moved by Arata Seconded by Adams Unanimously carried

The following persons were present, beside the city staff, to discuss the plans and specifications:

Architect Milton Pflueger, George Karsh, associated with Mr. Pflueger, Joseph E. Murray of Buonaccorsi & Murray, engineering consultants Ray C. Abst of Bomberger & Abst, Architects, associate architects Glenn Good of Pacific Telephone & Telegraph Company

The City Manager stated that Mr. Pflueger had indicated if the Council could approve all the necessary changes in the plans and specifications at this meeting they could be corrected in time for approval at the Council meeting of August 13 and at that time the call for bids could be authorized. Numerous questions already cleared with the Architect at staff level will be reported on later in the meeting, he stated.

Temporary Chairman Merrill asked Mr. Pflueger to proceed with the explanation of the city hall plans and specifications.

Mr. Pflueger stated that the changes recommended by the staff, after reviewing the progress prints of the plans and specifications, had all been included in those being filed at this time. Certain recommendations made during the past week after the final plans had been completed are not all incorporated in these prints. With the exception of one or two of these changes, he stated, the Council need not be concerned as they can be handled administratively by addenda.

Water in the court area: It was suggested that there might be consideration given to the need for some water in the court in the form of a fountain or flowing stream. Mr. Pflueger reported that in every one of the planting areas a faucet for watering purposes had been provided, a drainage line ran down the length of the court, and electric junction boxes were provided at every one of the planting areas which are for the purpose of lighting the planting or for any ornamental needs.

At any one of the planting areas, by a minor change order during the course of bidding or thereafter, any desired change could be made in the plans for water in the court. He suggested that additional time be taken to determine if and at which of the planting areas this would be most desirable and it be accomplished by a change order during the course of construction. From a monetary standpoint, the change would be minor, he stated.

Exterior materials: Mr. Pflueger reviewed the exterior materials proposed for the building and exhibited samples of the clay terra-cotta solar screen material and glazed brick to be used in the tower section.

He reported that they had drawn and would call for alternate bids on an anadized aluminum screen. When the bids are received final determination can be made between the two materials. He estimated the cost of the terra cotta material probably would be much less than the other type. He reported on the plans provided for maintenance of the screen material after construction.

Inter-communication system: The City Manager reported that Councilman Robinson had raised a question on the possible need for a voice inter-communication system in addition to the regular telephone service. The present plans call for a local dialing system, similar to the one now used by the County, which would eliminate a major portion of the calls which must be handled by the telephone operator. It would be possible to dial inter-office without the assistance of the operator and if an outside call was to be made it could be done by dialing the number 9 instead of getting the operator to give an outside line.

The staff considers that with this new arrangement with intra-departmental inter-coms that are now in use, no other system will be needed. If it is needed in the future any other kind of inter-com system could be established. The Phone Company has indicated that it will not cost the city any more per trunk or per phone, if used for a period of five years, than at present.

Mr. Good reported that by putting in the proposed dial system it would cut down the calls on the board by approximately one-third. Only incoming and long distance calls will have to be handled. If it is desired to have certain phones restricted from outside calls, it can also be arranged in the dial equipment itself.

The City Manager stated that unless there were further questions, the staff would proceed on this basis. Mr. Good stated that the only requirement for the city would be to execute a five year termination agreement and after the expiration of the term the equipment could be removed, if desired. There would be no installation charge and the extra costs involved would be for extra trunks and lines. He stated that if problems arose within the next few months the city could resolve them directly with the Company rather than the Architect.

The City Manager reported that he had checked with the Architect and had been advised it would be possible to place additional lines in the underfloor conduit system in the future if needed. Councilman Merrill stated that as long as the conduit would be available when needed for extra lines, there would be no problem.

Mr. Abst, Mr. Murray and Mr. Karsch were introduced by the City Manager.

Mr. Pflueger described the specific design proposed for the solar screen, which would be a continuous over-all weaving pattern, vertically and horizontally. No questions were raised by the Council on the design.

The City Manager suggested that the Council be advised of the nature of matters worked out directly by the staff with the Architect, such as placing of clocks, rearrangement of the flag pole, etc., but Councilman Merrill believed that these matters could be cleared by the staff rather than through the Council.

The City Manager stated that the only basic change by the staff related to the partitions between the law library and the conference room adjacent to the City Manager's and City Attorney's offices. This resulted in more shelf room in the portion designated as law library.

Council Chamber: Questions raised:

- 1- Whether the curve of the Council seating arrangement was too flat?
- 2- Whether there should be some distinction in the seating arrangement for the City Manager and City Attorney as compared to the Council?

The Council discussed the possibility of elevating the seating arrangement for the Council members and lowering it for the City Manager and City Attorney next to the Mayor vs. the end of the Council circle. Mr. Pflueger drew a diagram on the blackboard and explained seating arrangements used by other cities. He stated, that architecturally the Council circle should be one line and one level, but that the ends could be lowered five or six inches and used by the staff. The seating arrangement would not affect the bidding and could be decided at a later date, he stated.

Mr. Pflueger answered a question raised by the City Manager that the space behind the Council seating arrangement should be made flexible as to use. On occasions there may be some function not dealing entirely with the Council meetings held in the Chamber where a motorized screen or a map may be needed. Even if the Council did not like the arrangement for its meetings, it would give flexibility for the use of the Chamber. A portable map display board also could be made available for the Council meetings.

Court area: The City Manager reported that it has been suggested that bricks be used instead of redwood boards as a divider for the concrete squares proposed for the court area to reduce maintenance and replacement costs.

Mr. Pflueger stated that the installation cost would be more, but the maintenance and replacement costs would be less in the long run. He pointed out that this change could be handled by addendum, if approved by the Council, during the bidding period in order to carry out the present proposed schedule.

Director of Parks and Recreation Lowrey stated that in a public area, such as the city hall, there would be much more use than in a home area and the city would be ahead in the long run by using brick. He considered it would be preferable even if it would cost \$1,000 more.

#### MOTION

That the use of brick instead of redwood as a divider in the court area be explored.

Moved by Merrill      Seconded by Arata      Unanimously carried

Further discussion on materials to be used on exterior and interior of building 4-20

The two ends of the city hall will be in cement plaster. (north end facing the parking lot and south end facing H Street above the Council Chamber) Mr. Pflueger reported on the materials to be used and the various types of partitions to be installed throughout the building.

Water tower vs. wells: Mr. Pflueger outlined the available alternates for a cooling unit for the air conditioning system. Specifications call for alternate bids for cooling, and the decision can be made on the system to be used when they are reviewed.

He pointed out that the closed water tower would be located at ground level in the rear on the alley side close to the mechanical room and would not be unsightly. Councilman Merrill pointed out that the tower type would be much more economical than the well type of cooling system.

Mr. Murray answered a question raised by Councilman Adams----that the plans provided for emergency power for the mechanical spaces, Council Chamber, multi-purpose room and corridors. The generator is to be furnished and installed by the city but certain detailing has been provided in the drawings to assist the city in installation. Location and operation of the emergency power room and mechanical room were discussed by Mr. Murray and the Council members.

Mr. Abst stated that he had checked over the plans and found them to be complete, clear and efficient.

Proposed schedule for completion of city hall: Mr. Pflueger outlined the following proposed schedule:

August 13---Approve plans and specifications and authorize call for bids.

September 16-Bids to be received at the City Clerk's office until 2:00 P.M. and opened at 2:15 P.M. in the Council Chamber.

September 17-Award of bid by Council. Successful bidders would have 10 days to execute agreements.

October 1--- Starting date for construction which is to require 450 days.

December 31, Completion date.  
1959

Mr. Pflueger stated that the completion date could be advanced at the time the agreement is executed to provide for completion the day before Christmas, 1959, as suggested by the City Manager or it could be handled by addendum. He suggested that if the decision on the seating arrangement in the Council Chamber was forwarded to him and there was still time it would be prepared in addendum form, if not it could be handled as a change order as there would be little or no additional cost involved. The possibility of extending bidding time was discussed but no change in the specifications was ordered by the Council.

Availability of M I.D. building leased to county by city:

The City Manager raised this question which had been previously discussed at a recent Council meeting---- the possibility of establishing to alternates in the specifications, 1) the building would be available on May 31, 1959 at the termination of the lease, or 2) be available approximately 8 months later. If this was done the exact cost to the city of the delay could be determined.

Mr. Pflueger pointed out that if the building was vacated on May 31 or three months thereafter the contractor could still build the garage in the time left for the contract. If necessary the contractor could get an extension, as provided in the contract documents, for what ever period of delay there was. The basic bid would still apply even with three months delay but should the delay extend beyond the 3 months, the contract documents also provide that extra charges can be made on the basis of actual delay. In other words if the contractor proves that a further delay, say until February 196, means that his overhead charges then he can charge for this delay, plus 10% profit which is an actual overhead profit item included in the contract documents.

Councilman Arata asked if the city's cost would be less if the building was vacant at the time the contract was awarded. Mr. Pflueger answered by stating that the city hall itself, being a four story building, is the major portion of the contract. The M.I.D. building, is at the far end of the property so the contractors would still have ample construction room for all of their needs within the city hall site and without the M.I.D. property. One contractor might consider the cost would be less to have the whole property while another would not, he pointed out. They all like "to get the whole package at one time".

Councilman Merrill considered that the Council's concern was that the city should not be compelled to pay additional costs due to the leasing of the building and the failure of the County to vacate at this time or when the lease expires in May.

MOTION

That an alternate be included in the documents providing for bids on the basis of delivery of the M I.D. property May 31, 1959 or February 29, 1960 so the additional costs, if any, on the whole project in the event the County should not vacate the city building until February 1960, could be determined.

Moved by Adams      Seconded by Arata      Unanimously carried

MOTION

That the schedule proposed by Architect Pflueger be approved.

Moved by Arata      Seconded by Spaulding      Unanimously carried

MOTION

That the plans and specifications, as submitted, with changes as proposed, be approved.

Moved by Adams      Seconded by Arata      Unanimously carried

ADJOURNMENT:

MOTION

That the special meeting now in session be adjourned.

Moved by Adams      Seconded by Spaulding      Unanimously carried

  
Acting City Clerk

Adjourned Council Meeting  
August 12, 1958

WHEREAS, the Council of the City of Modesto adjourned its regular meeting of August 6, 1958, until 4:30 P.M. August 12, 1958, as provided by Section 2-1.01 of the Modesto Municipal Code, and

WHEREAS, due to conflicting engagements, it was impossible for the architect to be present at this time to discuss the plans and specifications, a special meeting was held on August 11, 1958. The City Clerk adjourned this meeting.

Signed: Gene W. Collins  
Acting City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Merrill, Robinson, Mayor Marks

Absent: Councilmen: Arata, Hammond, Spaulding

Councilman Arata arrived at 7:35 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Arthur B. Thurman, pastor of the First Methodist Church, gave the invocation.

LETTER FROM MRS. SIDNEY H. EVERS RE: RENT FOR ROOMS LEASED BY STANISLAUS COUNTY BRANCH OF THE SAN FRANCISCO CONSERVATORY OF MUSIC IN THE MODESTO COMMUNITY SERVICE CENTER 1-5

A letter was read from Mrs. Sidney H. Evers, Acting President of Friends of the Stanislaus County Branch of the San Francisco Conservatory of Music, requesting that the rental fee of \$75 established by the Council for the use of two rooms at the Community Center for the month of August be reduced to \$60 as the enrollment for the classes did not warrant the use of all the rooms and the revenue was considerably less than anticipated.

Director of Parks & Recreation Lloyd Lowrey suggested that favorable consideration be given to the request since the rooms had not been used to the degree anticipated and the custodial care was accordingly reduced.

Mrs. Elizabeth Bernardo, appeared on behalf of the organization and spoke briefly.

MOTION

That the request be approved.

Moved by Arata      Seconded by Merrill      Unanimously carried

LETTER FROM MODESTO YACHT CLUB, INC. 1-40

A letter from the Modesto Yacht Club Inc. was read offering the Club's services to the city "to advise in any problems concerning the development of the lakes for boating and recreational facilities".

Mayor Marks pointed out that the city was not proposing development of any boating facilities at the present time in connection with the construction of Dennett Dam.

The City Manager stated that the club has assisted in setting up control, checks and guards on water facilities in the county. He stated that he had received a similar letter from the Club and had asked them to work with the Director of Parks and Recreation. The County, under the contract, has also agreed to help set up proper regulations on boats using the Dennett Dam area.

Councilman Arata recommended that the facility be limited to canoes, swimming and slow moving excursion type of boats to prevent the washing away of the river banks to avoid suits being filed by the property owners along the river. The hours must be established for the use of the lake also to prevent people from using it during the night hours. Water skiing should be prohibited, he stated.

## MOTION

That the City Clerk be authorized to acknowledge receipt of the letter and thank the Club for its generous offer and ask for its continued cooperation with the City Parks and Recreation Department and the County in the development of proper controls for boats using water facilities in the city and county.

Moved by Adams      Seconded by Arata      Unanimously carried

LETTER FROM CALIFORNIA HIGHWAY COMMISSION RE: CONSTRUCTION OF STATE HIGHWAY THROUGH DEL PUERTO CANYON 1-103

The letter acknowledging receipt of the copy of Resolution No. 58-231, passed by the Council on July 23, 1958, was read and ordered filed.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR CONSTRUCTION OF THE CITY HALL 1-105

The City Manager briefed the action taken by the Council at the special meeting held on August 11 when the plans and specifications were reviewed with Architect Pflueger and his associates. He listed the alternatives for bidding which would be included in the Notice to Bidders.

Mr. George Karsh, representing Mr. Pflueger, presented the revised plans and specifications as informally approved by the Council at the special meeting.

RESOLUTION NO. 58-261

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING OF ALL LABOR, MATERIALS AND EQUIPMENT AND PERFORMING ALL WORK NECESSARY AND INCIDENTAL TO THE CONSTRUCTION OF A CITY HALL FOR THE CITY OF MODESTO

Introduced by Merrill      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

Tuesday, September 16, at 2:00 P.M. was set as the deadline for receiving of bids by the City Clerk at his office at the City Hall, and 2:15 P.M. of the same date as the time for the opening of the bids in the City Council Chamber in the McHenry Library.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR INSTALLATION OF WATER MAINS IN THE BEL AIR SUBDIVISION NO. 2 AND NORTHGATE SUBDIVISION NO. 2 2-27

The City Manager reported that the agenda had not included Northgate Subdivision No. 2 and the unanimous consent of the Council would be necessary before it could be included in the call for bids. No dissent was offered by the Council.

RESOLUTION NO. 58-262

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF WATER MAINS IN BEL AIR SUBDIVISION NO. 2 AND NORTHGATE SUBDIVISION NO. 2

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Spaulding, Hammond

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AMEND MUNICIPAL CODE RELATING TO TRAFFIC REGULATIONS 2-39

ORDINANCE NO. 251-C.S., entitled

"AN ORDINANCE AMENDING SECTION 3-2.502 OF ARTICLE 5 AND SECTION 3-2.814 OF ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO TRAFFIC CONTROL THROUGH CERTAIN ALLEYS AND LOCKING IGNITION REQUIREMENT"

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Adams  
 Ayes: Adams, Merrill, Robinson, Mayor Marks  
 Noes: Arata              Absent: Hammond, Spaulding

APPROPRIATE FUNDS RECEIVED FROM SALE OF CITY HALL BONDS 2-70

ORDINANCE NO. 252-C.S., entitled

"AN ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR EXPENDITURE DURING THE 1958-59 FISCAL YEAR"

was adopted and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                Absent: Hammond, Spaulding

Director of Finance Bird reported on the method used for investing city funds and the interest rates being paid the city by the banks.

HEARING ON REZONING OF PARADISE CENTER ADDITION 2-110

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the hearing on the proposed rezoning of Paradise Center Addition.

The Acting City Clerk certified that the notice of the hearing had been published in the manner prescribed by law, notices were mailed to all interested parties, the property was posted and that no written protests had been filed.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No oral protests were filed or comments made. Mayor Marks declared the hearing closed.

ORDINANCE NO. 253-C.S., entitled

"AN ORDINANCE AMENDING SECTION 6 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON (PARADISE CENTER ADDITION)"

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                Absent: Hammond, Spaulding

With the unanimous consent of the Council, items 26, 12 and 17 of the agenda were taken up at this time.

REPORT ON REQUEST OF NORTHERN CALIFORNIA YOSEMITE HIGHWAY ASS'N. FOR ALLOCATION OF FUNDS FOR COMPLETION OF FINAL LINK IN OLD COULTERVILLE ROAD TO YOSEMITE VALLEY 3-22

Pursuant to direction from the Council, the City Attorney reported that after studying all of the facts of the matter, a good case could be built to support the legality of the city allocating funds were it not for several

decisions handed down by the courts in other cities invalidating the expenditure of funds extra-territorially for the benefit of other portions of the county. He cited two cases to illustrate his point and briefed a report from the League.

Except for these cases, he stated, under authority of the City Charter to expend money for advertising, promotion, publicity, and for general welfare purposes, the Council could find sufficient benefit to the citizens of Modesto for this project. The difficulty arises that this involves expenditure of funds, and he could not assure the Council that it would be legal, he stated. If there was a taxpayer's suit and he should win the funds would have to be paid "out of your own pockets". He pointed out the project was desirable and would be of material benefit to the city but the difficulty is that it is located outside of the county. If the Council members wish to run a personal risk of allocating funds and have some citizen challenge it, it would be up to them. The personal risk involved for the members would be both individual and joint, he stated.

Jim Rice stated that Modesto would be the chief beneficiary of the road. Ed Andrews stated that there would be a savings of mileage to the Yosemite Park but not 40 miles as was stated in the city's resolution and the press.

Mayor Marks pointed out that the Council feels that the road will be an economic benefit to the city but the question was whether or not allocation of funds could be approved legally. He stated that Council would consider the request further at a later date.

REPORT ON REQUEST OF MODESTO RETAIL MERCHANTS-DOWNTOWN DIVISION FOR FUNDS FOR CHRISTMAS STREET DECORATIONS 3-127

The City Manager reported on his conference with the representatives of this organization, as directed by the Council.

At the request of Mayor Marks, the City Attorney rendered an opinion that there would be no legal conflict of interest involved due to the fact that the Mayor was a past president of the organization and a retail merchant who would derive certain benefits from the decorating of the downtown streets. This opinion also related to those Council members owning property in the downtown area.

The City Manager noted 1) that timing was an item to be considered since the organization must order the decorations as soon as possible; 2) that a report was prepared by the Public Works Department on "proposed mounting of plastic Christmas Bells on street lighting standards; 3) that a report would be given by the City Attorney, as directed by the Council, on the legality of allocating the \$8,000 requested by the Merchants; and 4) that a communication had been received from the McHenry Village Merchants Ass'n.

The letter, signed by Louie Grinnage, Chairman, was read. The Merchants Association of McHenry Village Shopping Center, Mr. Grinnage stated, believed that public tax monies should not be used to purchase Christmas decorations for the benefit of any particular group that it would be just as reasonable for public tax monies to be used for the benefit of any particular group such as doctors, lawyers or accountants, as it would be for public monies to be expended for the Downtown Merchants Associations, that McHenry Village merchants pay city taxes the same as do merchants elsewhere in the city but are, at their own expense, acquiring Christmas and other decorations and not calling upon the taxpayers to buy them; and that there must be no discrimination for or against any particular group in the expenditure of public funds.

The City Attorney reported that the Charter provides that the Council may expend not to exceed 5% of the property taxes for music, publicity and promotion. Celebrations will come within this rule, but the point made in

Mr. Grinage's letter is valid--that it cannot be for the benefit of a few as opposed to others that are involved. If the expenditure was made only for the downtown section and it was held unlawful because it was not for the benefit of all of the people in the city, the Council members would be held responsible.

Mayor Marks pointed out that it had always been the concept of the Council that it was in the public interest to have a strong downtown area, that the economic welfare of the downtown area is necessary to the well being of the community.

Councilman Arata pointed out that the city had established parking lots in the downtown area to protect the highly assessed area in the City. If this was not done other areas in the city would have to have higher assessed valuations and taxes. He noted that there were 13 vacant stores on Tenth Street (ground floor), on H Street, 15 and others on Ninth, 11th and 12th Streets. If there were no parking lots there would be many more vacancies, he contended. Vacancies can exist just so long before the value and taxation must drop. The Council should do everything possible to maintain the downtown highly assessed property or increase the values in other areas where rents are as high as properties in the central district.

Mr. Hamaway stated that since meeting with the City Manager the merchants had met with the Modesto Irrigation District to request an allocation of funds. Favorable reception was given to the request but a final decision was withheld by the District until a later date. He reported that the membership of the organization had increased from 43 to 56 since it was reported to the Council last week.

The City Manager noted that one of the justifications for providing parking in the downtown area had been the meters were located in this area and the revenue originated in this area. When other shopping areas developed to a point where meters would be required consideration would be given to the expenditure of money for parking facilities. The downtown merchants have been decorating the streets for Christmas on their own for many years and are now willing to put up their own money to a considerable extent and if other areas are willing to share the costs in a like manner and wish to present a plan to the Council it should be considered favorably.

Councilman Merrill's prime consideration was that the allocation of funds be made on an equitable basis to benefit all taxpayers.

Mr. Hamaway suggested that the Council consider as a basis for allocation of funds to all areas the percentage of taxes and fees paid to the city. He stated that the downtown merchants were now paying approximately 24.4% of annual revenue received by the city.

Could the Council legally allocate funds to the McHenry Village Merchants Association, a private owned shopping center, to finance Christmas decorations, was raised by Councilman Merrill.

The City Manager pointed out that the decorations could be placed on public streets in outlying shopping areas such as McHenry Avenue and Yosemite Blvd.

Councilman Arata suggested that before the Council makes its decision in order to eliminate the possibility of a controversy, other shopping districts be contacted.

Both Mr. Hamaway and Mr. Applebaum agreed that although the deadline for placing an order for November delivery had been set for August 20, one week delay would be in order.

Mr. Applebaum pointed out that the only other organized merchant group in the city was the McHenry Village Merchants Association.

The City Attorney pointed out that if decorations were going to go over the city in proportion of some formula, the city would be in the business of buying and installing the decorations. If any money is allocated it will have to go to some lawfully constituted organization, such as the Merchant Associations and could not go to some unorganized committee. If it is true there is only two basic organizations, these are the ones the City should negotiate with.

Mayor Marks summed up the Council's positions, that some kind of formula would be established during the coming week which would be applicable to the downtown merchants association and to the other interested associations so that discrimination will not be shown between the two groups.

It was agreed that the consideration involved public streets only and not private areas, and a pro rata basis of participation for this year only by organized groups be considered.

Mr. Hamaway assured the Council that if it had not been for the new state law which prohibited the use of the Association's decorations and forced them to buy new ones, the allocation request would not have been made. A reserve fund is built up to take care of future years and it will not be necessary to again request funds from the Council.

Mr. Applebaum pointed out that the original request for \$8,000 could be reduced by the amount which will be allocated by the M.I.D.

#### MOTION

That the staff check with the other interested shopping areas, particularly Mr. Grinage, Chairman of McHenry Village Merchants Association, and that by the next Council meeting an answer to the Downtown Merchants Association be resolved and if the other shopping areas agree to participate in the cost on the same basis they be given like consideration for funds to be used on public property only.

Moved by Arata      Seconded by Merrill      Unanimously carried

#### CONSIDER PROPOSAL OF SPORTSMEN OF STANISLAUS TO PURCHASE SITE NEAR DRYDEN PARK MUNICIPAL GOLF COURSE 6-52

Cleve Stockton appeared on behalf of the Sportsmen of Stanislaus, and outlined the purpose and organization of the Club. He pointed out that it was open to anyone in the Modesto area who would care to join. He stated the Club wished to purchase a small triangular parcel of land on Neece Drive, adjoining the Dryden Park Municipal Golf Course approximately 3 acres in size. The Club proposes to construct recreational facilities and the present program calls for a gym, tennis courts, squash courts, swimming pool, dining facilities, etc. These types of facilities will blend in with the golf course. He reported that the Club had conferred with the City Manager and Director of Parks and Recreation and that the 3 acre parcel was not proposed to be used in the development of the 18 hole golf course.

Mayor Marks asked the City Attorney for an opinion on whether there would be a conflict of interest since he was a charter member of the Sportsmen of Stanislaus Club. Mr. Grimes considered there would be no conflict of interest since there was no stock involved, and no compensation received.

Mayor Marks pointed out that the city did not yet own the property in question but only held an option from Kenneth Durand, which would be taken up this year.

The City Manager suggested that the Council indicate its position at this time on whether favorable consideration would be given to the offer and a further study be made by the staff and Club on a definite location so that there will be sufficient clearance to avoid a public hazard from the driving range of the golf course.

To a question raised by Councilman Arata, Mr. Stockton assumed that some arrangements could be worked out where the general public could use some of the club facilities until the clubhouse was built on the 18 hole golf course. He answered a question of Councilman Robinson that the club planned to raise funds for the building of the facilities as soon as possible and were ready to start at the present time.

Mayor Marks recommended that any arrangements made with the club should include a provision that if there is any hazard in the area from golf balls adequate protection be provided.

Mr. Stockton filed a copy of an appraisal made with the club on the 3 acre parcel proposed to be purchased, which indicated the value to be \$2500 per acre. Mr. Stockton stated that the Club would give consideration to any figure which the city might have in mind. He pointed out that the proposed development of the property by the Club would be of great benefit to the city and afford additional recreational facilities. He considered that the numerical limit of the Club membership would increase as the program was developed.

The Mayor suggested that the Council indicate that a price in the neighborhood of \$3,000 per acre would be considered at this time. Mayor Marks pointed out that this was a non-profit organization, they were offering to pay for the land instead of requesting, as other organizations have done, that the land be given without charge.

Councilman Robinson suggested a long-term lease basis. Mayor Marks considered that the revenue of \$9,000 which would be received could be invested in the golf course to assure its completion sooner. Councilman Arata pointed out advantage of using the restroom facilities until the golf clubhouse was completed. He suggested that some arrangements be worked out between the city and Sportsmen for the use of these facilities because the course would be completed in advance of the clubhouse. If this could be arranged the Council could justify a more favorable price.

Mr. Stockton pointed out that the particular parcel being considered would have no use in connection with the golf course as it is on a hill. He asked that the Council consider this was a non-profit corporation and it is the citizens of Modesto supplementing the recreational facilities which will blend in ideally with the city's program for this area. He considered that some arrangements could be worked out which would be satisfactory to all concerned on the temporary joint use of the restroom facilities.

Councilman Arata suggested that the funds derived from the sale of the property be used in developing the area behind the ball park, connecting the 9 hole course, for horse shoe courts and tennis courts, so that the present sub-standard building could be removed.

Councilman Adams believed that before the Council established a price on the property it should have the benefit of more staff study on price, location, etc. and that he would like to have an opportunity himself to inspect the property.

Mayor Marks suggested that "we indicate to the group that this is a good deal, the price is fair, let's work out the details".

The City Manager considered the proposed use of the area very good, that it would fit in fine with the city's plans but the Council should have an appraisal report before a decision was made on the price. He suggested that the Council give the Club's request most favorable consideration and indicate its approval in principle and desire to have it worked out so that the staff could then resolve all of the problems. He pointed out that the discussion had not been on a precise area but a general area which could be shifted. It is important that the facility be as reasonably close to the golf course clubhouse and yet there be sufficient separation so that it would not hide the view of the golf clubhouse and there not be any conflict between the facility and the driving range. The price to be paid would vary on the precise location. The city's appraiser has indicated a price higher than the one offered by the club for this type of quasi-public use. The City should be willing to help get the facility into use since it is desirable and since it would supplement and compliment the club use. Staff studies indicate that the sewer facility could be used jointly by the two clubhouses. He recommended that before the Council decided on a firm price, in the public interest and for the council members own protection, that an appraisal be obtained.

Mr. Stockton stated the club would be willing to submit the matter to an independent appraiser and bear one-half of the cost of the appraisal and to abide by his figure, if the Council so desired.

#### MOTION

That the Council go on record as approving this project in principle with the details to be worked out as soon as possible as to the actual lot size, location and other facilities which could be used temporarily on a joint basis.

Moved by Adams      Seconded by Arata      Unanimously carried

Mr. Stockton answered a question raised by Councilman Robinson—details will be worked out in the agreement that in the event the club will cease to use the property it will either revert or be sold back to the city.

The City Attorney pointed out that before any arrangements be made with the club for the purchase of the property, the city must exercise its option and purchase the property from Mr. K. Durand.

#### ACCEPT IMPROVEMENTS ON EIGHTH AND G STREETS FROM STANDARD MATERIALS INC. 8-76

##### RESOLUTION NO. 58-263

A RESOLUTION ACCEPTING THE CONSTRUCTION OF IMPROVEMENT OF 8TH STREET, WASHINGTON TO L AND G STREET, 14TH TO BURNEY STREET BY STANDARD MATERIALS, INC.: AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH STANISLAUS COUNTY RECORDER

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None      Absent: Hammond, Spaulding

#### FURTHER CONSIDERATION OF SPECIAL CAPITAL OUTLAY FUND BUDGET 8-87

Up-to-date tabulation of the special capital outlay fund budget indicating items already approved and those remaining were distributed to the members for guidance in their discussions. Those project appropriations already approved totaled \$387,665, proposed reserve \$100,000 and balance for allocation \$171,120.

The City Manager reviewed the revised proposed allocations indicating those projects where the city was committed and those where high priority was desirable.

<u>Community Service Center</u> (approved)	\$ 3,188	Is the semi-final stage for improvements indicated at the Center. (reconstruction of back porch, etc.) Urgently needed.
<u>Fire Station McHenry Avenue</u> (approved)	\$30,000	Some preliminary work has been done and staff is to advise whether plans are to be done by staff or outside help. Already committed.
<u>Fire Station Site</u> <u>Kearney-Coldwell area</u> (approved)	\$ 5,000	Recommended for Council consideration. Alternate location for station on Virginia, which can be sold for residential purposes.
<u>Balance, Phoenix Ave. Fire Station</u> (held in reserve)	\$ 4,451	Recommended that this not be set up this year. Councilman Arata suggested this be used as a fire station by the city, and asked for a further study. Possibility of renting the building until needed by city was discussed. City Manager to make a report on zoning, etc.
<u>Park acquisition in Eastern LaLoma Area</u> (approved)	\$35,000	Already approved by Council. Specific sites will be presented shortly.
<u>Garden Refuse Disposal</u> \$151,000	\$50,000	Approved
<u>Water Study</u>	\$ 5,000	Approved
<u>Northern Blvd. Acquisition</u> (condemnation proceedings started)	\$23,000	Approved
<u>Cooperative Street Paving Program</u>	\$10,000	Approved
<u>Tidewater Southern Crossing</u>	\$ 2,000	Approved
<u>Orangeburg-Briggsmore</u>	\$ 4,000	
<u>Sub-trunk McHenry from Granger to Hintze</u> (city obligation to replace sewer)	\$13,000	Approved
<u>Traffic signals-signals at 12th and J Streets</u> (state participation)	\$ 2,500	Approved
Total	\$182,688	

The City Manager stated that expansion of the fire alarm system #1 (\$10,000) and central communications center (35,590) could be considered jointly. Even if the Council authorized the staff to proceed at this time,

probably not all of the funds for construction would be needed this year in this allocation. Some federal funds will be available for the communication center, he pointed out.

A general discussion was held on the proposed allocation of \$50,000 for the garden refuse disposal and it was agreed that this sum should remain, due to the urgent problem.

The City Manager recommended that \$3,000 or \$4,000 be allocated for the Central Communications Center for the purpose of charging costs. He suggested that the allocations discussed be "firmed down" and a summarized report be submitted at the next meeting.

The City Manager asked that the Council consider, 1) the city is now reaching some conclusions with the state on the Maze Wren Park which is to be acquired for the freeway route which will be presented shortly for Council consideration. Condemnation proceedings will be involved and the court will establish the stipulated price to be paid by the state. He suggested that these funds be used, if received this year, for the allocation of improvements in some of the parks the city has purchased, including the one replacing the park.

2- The Library Board and Planning Commission both recommend that in view of the uncertainty about the future library site a portion of the funds, approximately \$70,000 of the library capital fund, be used to purchase one-half of the city's 15th Street parking lot on a reserve basis until the program is cleared. This would provide funds which could be used to complete the 18 hole golf course at an earlier date. He reported that the staff had prepared a schedule which would permit completion by next fall if these funds, plus an additional amount of the order of \$40,000, could be allocated this year and the balance next year. During the next week, he stated, a report would be submitted as to how this could be done.

Councilman Arata suggested the purchase of the property adjoining the present library building which would increase the value of the present property and make it more valuable when and if it was sold. The City Manager stated that there would be sufficient funds in the special capital outlay library fund this year to do both if the Council wished and thus be protected in two ways, and still have enough money to complete the course this year. The use of the money by the city instead of leaving it in the bank at the 1% plus interest being paid would be advantageous to the city also. The City Manager stated this matter would be included in his report to the Council next week.

ORDINANCE NO. 254-C.S., entitled

"AN ORDINANCE APPROPRIATING UNAPPROPRIATED RESERVES IN THE SPECIAL CAPITAL OUTLAY FUNDS FOR EXPENDITURES DURING THE 1958-59 FISCAL YEAR AND ALLOCATING THEM FOR THE SPECIAL CAPITAL OUTLAY RESERVE"

was adopted and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Mayor Marks  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None              Absent: Hammond, Spaulding

HOLD OVER ENDORSEMENT OF PROPOSITION NO. 1 VETERANS BOND ACT OF 1958 11-35

This matter was held over.

REPORT ON ACTION FOR ACQUIRING RIGHTS OF WAY FOR YOSEMITE BOULEVARD TRAFFIC SIGNALS 11-37

MOTION

That the staff prepare the necessary condemnation documents to

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acquire rights of way for installing Yosemite Boulevard traffic signals, if they cannot be cleared in any other manner.

Moved by Robinson      Seconded by Arata      Unanimously carried

HOLD OVER STATEMENT RE: PROPOSITION NO. 17 11-42

This matter was held over. Councilman Adams asked that the statement be distributed to the members for study before action was taken.

ORDER CURBS, GUTTERS AND SIDEWALKS ALONG ROBLE AVENUE AND SANTA BARBARA AVENUE (MUTH) 11-52

RESOLUTION NO. 58-264

A RESOLUTION ORDERING THE WORK OF CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS ALONG CERTAIN STREETS IN THE CITY OF MODESTO (ROBLE AVENUE AND SANTA BARBARA AVENUE)

Introduced by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

ACCEPT INSTALLATION OF TRAFFIC SIGNALS ON G AND 12TH STREETS 11-59

RESOLUTION NO. 58-265

A RESOLUTION ACCEPTING THE INSTALLATION OF TRAFFIC SIGNALS ON G STREET AT SEVENTH, TENTH AND ELEVENTH STREET AND ON TWELFTH STREET AND I STREET FROM MODESTO INDUSTRIAL ELECTRIC COMPANY; AUTHORIZE PAYMENTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE STANISLAUS RECORDER

Moved by Adams      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

REFER PETITION FOR ANNEXATION OF ZLAB SUBDIVISION NO. 2 TO PLANNING COMMISSION 11-60

RESOLUTION NO. 58-266

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS ZLAB SUBDIVISION NO. 2 ADDITION

Moved by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

ACCEPT RIGHT OF WAY AGREEMENTS FOR WIDENING OF MCHENRY AVENUE 11-62

The City Manager noted that right of way agreements had been executed and were ready for acceptance from Richfield Oil Corporation, Irma Morris, and George and Helen Kounias, and stated the amounts involved.

RESOLUTION NO. 58-267

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Merrill      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

APPROPRIATION TRANSFER RE: CITY ATTORNEY OFFICE RENT AND PURCHASE OF PAINT SHAKER 11-66

## RESOLUTION NO. 58-268

A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM GENERAL RESERVE TO CITY ATTORNEY FOR MONTHLY RENTAL ON OFFICE AND TO PARKING AND TRAFFIC FOR PURCHASE OF PAINT SHAKER

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

APPROVE AGREEMENT WITH COUNTY FOR CONTINUATION OF ADVANCE PLANNING PROGRAM 11-70

## RESOLUTION NO. 58-269

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR THE CONTINUATION OF THE ADVANCE PLANNING PROGRAM

Introduced by Adams      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

ACCEPT DEMOLITION OF THE OLD HOTEL MODESTO BUILDING 11-71

## RESOLUTION NO. 58-270

A RESOLUTION ACCEPTING THE DEMOLITION OF HOTEL MODESTO FROM CALIFORNIA BUILDING WRECKING COMPANY: AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Hammond, Spaulding

## MOTION

That Mayor Marks be authorized to write a letter of commendation to the company for the excellent manner in which the work was done.

Moved by Merrill      Seconded by Robinson      Unanimously carried

VISITORS AT COUNCIL MEETING

Mrs. Berg and her daughter, Mrs. Mensel, from Southern California, visiting Assistant City Manager Masonheimer were guests at the Council meeting.

REPORT ON GRANTING SCHOLARSHIP TO OFFICER DON WATSON TO ATTEND DELINQUENCY CONTROL INSTITUTE 11-86

Chief Bowers reported that Officer Don Watson had been granted a full educational scholarship to attend the University of Southern California Delinquency Control Institute. Officer Watson who was present, spoke briefly. Mayor Marks commended him on his work and the honor of being the first officer to be selected.

REPORT BY CITY ATTORNEY ON COMMUNICATION FROM EDWARD ARPS 11-102

The City Attorney reported that he answered the communication referred to him by the Council and had advised him that what he proposes is not authorized by law.

COMPARATIVE REPORT ON USE OF MOTORCYCLES VS CARS FOR PATROLLING 11-104

The City Manager noted that copies/<sup>of the report</sup> had been previously distributed to the Council members. Rental charges for motorcycles vs cars was questioned by Councilman Robinson and cleared by Chief Bowers.

TERMINATION OF MODESTO FAMILY CAMP ARRANGEMENTS AT PINECREST 11-122

The City Manager reported that Mr. Wilbur E. Twining has requested that the Modesto Family Camp arrangement at Pinecrest be discontinued. No action was required by the Council.

REPORT FROM LEAGUE OF CALIFORNIA CITIES ON BALLOT PROPOSITIONS 11-125

The Council members reported that they had all received copies of the League report.

REQUEST BY CITY ATTORNEY AND CITY MANAGER FOR CHANGE OF VACATION PERIOD 12-1

The City Attorney requested permission to change his vacation plans which had previously been approved by the Council to permit him to attend, at his expense, the American Bar Association Conference beginning August 25.

The City Manager asked to be permitted to work out some of his vacation time as the time permitted until school started.

## MOTION

That the change in vacation plans for the City Manager and the City Attorney be approved.

Moved by Arata      Seconded by Robinson      Unanimously carried

CONSIDER APPOINTMENTS ON BOARDS AND COMMISSIONS 12-06

Councilman Arata asked that the appointment on the Board of Zoning Adjustment be held over for one week so that he would have the opportunity to contact a person now on vacation. No dissent was voiced by the Council and the matter ordered held over.

Mayor Marks reported he had contacted Ray Starn and he had agreed to serve on the Personnel Commission.

## RESOLUTION NO. 58-271

A RESOLUTION ACCEPTING THE RESIGNATION OF TOM BEARD FROM THE MODESTO PERSONNEL COMMISSION

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Marks  
Noes: None      Absent: Hammond, Spaulding

The matter of appointment of Ray Starn was held over until it could be cleared that he was not doing work for the City.

ADJOURNMENT

## MOTION

That the meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:   
ACTING CITY CLERK

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The Acting City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Spaulding, Mayor Marks

Absent: Councilmen: Hammond, Robinson

Councilman Hammond arrived at 4:26 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Robert Segerhammer, pastor of the Emanuel Lutheran Church, gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of July 23 and August 6, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM A. M. ROSE SUBMITTING RESIGNATION FROM BOARD OF ZONING ADJUSTMENT 1-22

A letter from A. M. Rose was read submitting his resignation from the Board of Zoning Adjustment as his future plans prevented his regular attendance at all the meetings.

Mayor Marks was authorized to contact Mr. Rose to discuss this matter before any formal action was taken by the Council.

#### LETTER FROM FRANK ANDREWS RE: HASTE IN BUILDING CITY HALL 1-40

Mr. Andrews believed that the Council was proceeding with the building of the city hall too rapidly. He considered that the Police Department should be included in the city hall. The letter was ordered filed.

#### HEARING ON IMPROVEMENT DISTRICT NO. 7 - CURBS AND GUTTERS IN GARRISON SCHOOL ADDITION 1-46

Mayor Marks announced that the hour of 4:00 P.M. had arrived, the time set for the public hearing as to the public convenience and necessity of the construction of improvements in Improvement District No. 7 (curb and gutters).

The Acting City Clerk certified that notices of the hearing were mailed to all property owners in the district on August 1; Resolution of Intention No. 263 had been published in the city's official newspaper, the Modesto Bee on August 1 and August 8, 1958; a copy of this regulation had been posted on the Council Chamber door since July 31; quarter cards were posted in the district on August 5; and seven communications had been received.

These communications were noted by the City Attorney who advised that they were not legal protests to this hearing but related to the hearing on the doing of the work.

Mayor Marks asked if there were any oral protests to the public convenience and necessity of the construction of improvements or if anyone wished to make any comments. No protests were filed or comments made.

Mayor Marks declared the hearing closed.

## RESOLUTION NO. 920-S.P.

A RESOLUTION FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 7, CITY OF MODESTO, STANISLAUS COUNTY, CALIFORNIA; THAT THE SPECIAL ASSESSMENT INVESTIGATION, LIMITATION AND MAJORITY PROTESTS ACT OF 1931 SHALL NOT APPLY, AND DETERMINING THAT SUCH PROJECT SHALL PROCEED UNDER THE TERMS AND PROVISIONS OF THE IMPROVEMENT ACT OF 1911

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Marks  
 Noes: Nene                      Absent: Hammond, Robinson

Mayor Marks opened the hearing on the work to be done and improvements to be made in Improvement District No. 7.

Written protests filed were read:

Julia A. Jones,  
 Mrs. Lilly Edwards, 1404 Teresa St.,  
 Mr. Clarence Kahl, 1525 Pearl St.,  
 Mrs. Hazel D. Kahl, 1525 Pearl St.,  
 Herbert B. and Cornelia Jacober, 1548 Pearl St.,  
 David S. and Laura G. Dughi, 1416 Carver Road  
 John and Jean Schilt, 1424 Carver Road.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. The following persons spoke, some in opposition and others asking for clarification of plans for the work which were cleared by City Engineer Campbell:  
 Clyde Hopkins, 1039 Paradise Ave., owner of 1423 Teresa St.,  
 E. N. Aloisis, 1541 Teresa,  
 John Schilt, 1424 Carver Road,  
 C. F. Underdown, 1602 Teresa.

City Engineer Campbell estimated the oral and written protests represented approximately 5% of the district.  
 Councilman Hammond arrived at this time.  
 Mayor Marks declared the hearing closed.

## RESOLUTION NO. 921-S.P.

## A RESOLUTION OVERRULING PROTESTS

Introduced by Hammond      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

## RESOLUTION NO. 922-S.P.

## A RESOLUTION ORDERING THE WORK

Introduced by Hammond      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

The time set for opening of the bids in the City Clerk's office was 2:00 P.M. September 8, 1958.

## RESOLUTION NO. 923-S.P.

## A RESOLUTION ADOPTING SCALE OF PREVAILING WAGE RATES

Introduced by Merrill      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

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APPOINTMENTS ON BOARDS AND COMMISSIONS 3-50

Mayor Marks reported that Jack Jones had agreed to accept an appointment on the Board of Zoning Adjustment for the unexpired term of Elmer L. Winger.

## RESOLUTION NO. 58-273

A RESOLUTION APPOINTING JACK JONES TO THE BOARD OF ZONING ADJUSTMENT

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

The City Manager reported that pursuant to Council direction, the Finance Director had contacted Mr. Ray Starn and advised him that if he accepted an appointment on the Personnel Commission it would be impossible for him to do any business with the city and Mr. Starn had agreed to accept the appointment under these conditions as he considered it his public duty to "take his turn".

## RESOLUTION NO. 58-274

A RESOLUTION APPOINTING RAY STARN TO THE PERSONNEL COMMISSION FOR THE UNEXPIRED TERM OF TOM BEARD

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

HEARING ON CONSTRUCTION OF SIDEWALK ON SYCAMORE AVENUE (CLARA HOLMES) 3-65

Mayor Marks announced that the hour of 4:15 P.M. had arrived, the time set for the public hearing on the requirement of construction of a concrete sidewalk on Sycamore Avenue between Roseburg and Orangeburg Avenue (Clara Holmes property).

The City Clerk certified that Mrs. Holmes had been sent a copy of Resolution No. 58-252 advising her of the public hearing; that her property had been posted by the Public Works Department in the manner required by law; and that no written protests had been filed.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No protests were filed or comments made. Mayor Marks declared the hearing closed.

## RESOLUTION NO. 58-275

A RESOLUTION ORDERING THE WORK OF CONSTRUCTION OF A CONCRETE SIDEWALK ON SYCAMORE AVENUE BETWEEN ROSEBURG AND ORANGEBURG AVENUES IN THE CITY OF MODESTO.

Introduced by Mayor Marks      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

The City Attorney reported that Mrs. Holmes had contacted him by phone and still indicated that she was opposed to this construction for financial reasons and would be unable to appear at the hearing.

REPORT ON PROPOSED DEVELOPMENT PLAN FOR MODESTO INDUSTRIAL PARK 3-78

The City Manager reported that the proposed development plan for Modesto Industrial Park had been presented to the Planning Commission on August 19, reviewed with the Tidewater Southern Railway Co. and the county. He asked

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the staff be authorized to proceed with the plan for expansion of the proposed park and establish the planning strip to provide the proper screening and separation between the residential and industrial area. A sketch of the proposed plan was displayed for Council information and informally discussed.

Planning Director Smeath explained the proposal for adding approximately 1 to 1½ acres to the existing park area adjacent to the industrial area.

#### MOTION

That the staff be authorized to work out the plan as outlined with final decision subject to Council approval.

Moved by Hammond      Seconded by Merrill      Unanimously carried

#### FURTHER CONSIDERATION OF OFFER OF SPORTSMEN OF STANISLAUS TO PURCHASE PROPERTY ADJOINING DRYDEN PARK MUNICIPAL GOLF COURSE 3-115

As directed by the Council, the City Manager reported that Appraiser Bill Murray had been employed, jointly with the Sportsmen Club, to make an appraisal of the property adjoining the 18 hole golf course. Mr. Murray estimated the present land value to be \$2750 per acre and with the use of a sewer line which the City would need to serve the golf clubhouse, would be worth \$3,000 per acre.

Richard Willey, representing the club, filed an offer with the Council to purchase the property at \$3,000 per acre. Copies of the offer, outlining the size, location, nature of the development proposed and other pertinent conditions were distributed to the Council for their study.

The City Manager pointed out that the price offered was on the condition that the city would make available the sewer which would be necessary anyway for the golf clubhouse. This Club would be permitted to tie into the sewer without additional costs, but would pay the usual service charges.

Mr. Willey stated that when the club's facilities were completed they would be made available to golfers but it might be possible that the completion of the facilities would not coincide with the completion of the 18 hole course.

#### MOTION

That the City Attorney be instructed to draw up the necessary papers to facilitate the sale of the property to the Sportsmen of Stanislaus under the conditions outlined in its offer of August 20, at a cost of \$3,000 per acre.

Moved by Merrill      Seconded by Arata      Unanimously carried

The City Manager was instructed to decide on the timing and manner in which the deed would be executed to coincide with the exercising of the City's option with Kenneth Durand for the purchase of the additional 20 acres so that Mr. Durand would be able to harvest the walnut crop.

The City Manager reported that it might be possible to work out something on the joint use of the facilities but there would be some difficult problems to resolve. He recommended that the city at least have some temporary minimum facilities constructed for the golf course when it is put into play.

#### ACCEPT BID FROM TANNER CONSTRUCTION CO. FOR CURB AND GUTTER IN ASHBY PARK 4-63

Tabulation of the bids received were distributed to the Council. The Assistant Director of Public Works reported that the two lowest bids submitted

had some minor irregularities but the notice to contractors provided that these could be waived by the Council. The bidders failed to write out the unit price as well as list them in figures. He pointed out that there was no question as to the intent of the bidders. He recommended that the bid of \$1,313.68 submitted by Tanner Construction Co. be accepted if the Council saw fit to waive the irregularity in its bid.

RESOLUTION NO. 58-276

**A RESOLUTION ACCEPTING THE BID OF \$1,313.68 FROM TANNER CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF CURB AND GUTTER IN ASHBY PARK**

Introduced by Hammond      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                      Absent: Robinson

APPROVE HOLDING OF CITIZENS' SEMINAR 4-90

Mayor Marks summarized a notice received from the City of Hayward relating to a Second Citizens' Seminar held in that city inviting citizens and organizations to offer their ideas and suggestions concerning the operation of the city, offering to answer any questions concerning local governmental service, and listening to complaints or requests. He suggested that the City Council sponsor such a seminar in Modesto the first one to be held sometime during the later part of September, at a large auditorium, such as the M.I.D., so that Modesto citizens could do the same. He read a letter received from Carol Fulkerth which had suggested the same type of meeting.

MOTION

That the Council go on record as favoring in principle the holding of citizens' seminars and that the notice to be sent to the citizens be prepared by the staff for approval by the Council and a report be prepared on the estimated cost for mailing and printing of notice.

Moved by Hammond      Seconded by Mayor Marks      Unanimously carried

HEARING ON PROPOSED ZONE CHANGE FOR MAZOROS PROPERTY ON TULLY AVENUE 4-56

Mayor Marks announced that the hour of 5:00 P.M. had arrived, the time set for the public hearing on the proposed rezoning of the Mazoros property located on the east side of Tully Avenue between Fremont School and the alley north of College Court.

The City Clerk certified that the notice of the hearing had been published in the manner prescribed by law, notices mailed to interested parties, and the property had been posted and no written protests had been received.

Resolution No. 450 adopted by the Modesto Planning Commission on July 15 recommending to the Council that Section 20 of the zoning map be amended to reclassify this property from two family zone, R-2 to Multiple-Family Zone, R-3, was noted by the Council.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No protests were filed or comments made. Mayor Marks declared the hearing closed.

ORDINANCE NO. 255-C.S. entitled

**"AN ORDINANCE AMENDING SECTION 20 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON"**

was introduced and ordered printed and published as required by the Charter.

Moved by Arata           Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None               Absent: Robinson

ACCEPT BID OF GEORGE REED FOR IMPROVEMENTS OF STREETS 5-76

RESOLUTION NO. 58-277

A RESOLUTION ACCEPTING THE BID OF GEORGE REED IN THE AMOUNT OF \$22,349.50 FOR THE IMPROVEMENT OF L STREET FROM TENTH TO FOURTEENTH STREETS AND SEVENTEENTH STREET FROM H STREET TO I STREET IN THE CITY OF MODESTO

Introduced by Adams    Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None               Absent: Robinson

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR EXTENSION OF COFFEE ROAD SANITARY SEWER TO ZLAB NO. 2 SUBDIVISION 5-90

RESOLUTION NO. 58-278

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF EXTENSION OF COFFEE ROAD SANITARY SEWER TO ZLAB NO. 2 SUBDIVISION

Introduced by Arata    Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None               Absent: Robinson

GRANT CURB CUT VARIANCE TO TOWN HOUSE LODGE AT 909 16TH STREET 5-97

Mr. Campbell reported that the request was for a 36' curb cut on 16th Street and an inspection of the property indicated that on-street parking, as it now exists, would not be affected by the increase of 6 feet in the curb cut as two on-street parking spaces would be eliminated whether the driveway was 30 feet or 36 feet in width.

RESOLUTION NO. 58-279

A RESOLUTION GRANTING REQUEST OF TOWN HOUSE LODGE FOR VARIANCE FROM CURB CUT PROVISIONS OF THE MODESTO MUNICIPAL CODE FOR LODGE LOCATED AT 909 16TH STREET IN THE CITY OF MODESTO

Introduced by Arata    Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None               Absent: Robinson

FINAL ADOPTION OF ORDINANCE NO. 251-C.S. AMENDING CODE RE: ONE WAY ALLEYS AND LOCKING IGNITION REQUIREMENTS 5-105

Councilmen Spaulding, Merrill and Arata spoke in opposition to the final adoption of the ordinance on the basis that the locking ignition requirement was undesirable type of legislation. Mayor Marks asked that the final adoption be held up.

The City Attorney pointed out that the ordinance not only related to locking ignition requirements but also to one-way alleys, and that the ordinance only added a paragraph to the existing law now in effect which requires the locking of ignition to clarify its effect on civil liability. He recommended that since the ordinance had already been published in order to save costs that as a procedure the Council finally adopt the ordinance since the locking ignition requirement is already in the code and the ordinance only its effect with regard to civil liability, etc. and traffic control in alleys.

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Then if it is the Council's desire to repeal the section requiring the locking of ignitions, he recommended that a new ordinance be prepared to that effect.

ORDINANCE NO. 251-C.S. entitled

"AN ORDINANCE AMENDING SECTION 3-2.502 OF ARTICLE 5 AND SECTION 3-2.814 OF ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE RELATING TO TRAFFIC CONTROL THROUGH CERTAIN ALLEYS AND LOCKING IGNITION REQUIREMENT"

having been printed and published as required by the Charter and coming on for final consideration was upon roll call carried and adopted by the following vote:

Moved by Mayor Marks                      Seconded by Adams  
Ayes: Adams, Hammond, Spaulding, Mayor Marks  
Noes: Arata, Merrill                      Absent: Robinson

Councilman Spaulding asked that the City Clerk place the matter on the agenda for further consideration at the Council meeting of Sept. 3.

FINAL ADOPTION OF ORDINANCE NO. 253-C.S. REZONE PARADISE CENTER 6-82

ORDINANCE NO. 253-C.S. entitled

"AN ORDINANCE AMENDING SECTION 6 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON (PARADISE CENTER ADDITION)"

having been printed and published as required by the Charter and coming on for final consideration was upon roll call carried and adopted by the following vote:

Moved by Merrill                      Seconded by Hammond  
Ayes: Adams, Hammond, Arata, Merrill, Spaulding, Mayor Marks  
Noes: None                              Absent: Robinson

APPROVE ALLOCATION OF FUNDS TO RETAIL MERCHANTS-DOWNTOWN DIVISION 6-83

The City Manager reported that as directed by the Council he had met with representatives from both the Downtown Merchants Association and the McHenry Village Merchants and both were in general accord with the suggestion that if the Council wished to participate in the costs for Christmas decorations on city streets only, that it be done on a 50/50 sharing basis, the city to put up not to exceed one-half of the amount requested for any area on the basis the city will match funds collected by the Associations from other sources, whatever they may be, with the amounts to be allocated by the city to be proportional on some reasonable basis to the commercial activities in each area. The basis need not be determined precisely at this point but it be established on some reasonable proportionate basis if other areas wish to submit proposals.

As McHenry Village was privately owned problems involved in installing decorations on state highways was briefly discussed.

The City Manager reported that the Downtown Merchants agreed to submit records on their actual cost for securing decorations if the City would share one-half of this cost (not to exceed \$5,500 for the city's share) and that the same general proposition be available to all other areas on a proportional basis. This can be worked out in final form for Council approval if desired, he stated.

RESOLUTION NO. 58-280

A RESOLUTION APPROVING ALLOCATION OF FUNDS FOR CHRISTMAS STREET DECORATIONS

## MOTION

That the City of Modesto provide health insurance for its employees by participating in the premium payment of a single group health insurance program for all city employees in the amount of the employees' premium, not to exceed \$5.00 per employee per month.

Moved by Adams      Seconded by Spaulding      Unanimously carried

## MOTION

That the Modesto Brokers' Association be requested to designate a broker of record to handle this program on behalf of the city, subject to Council final approval.

Moved by Arata      Seconded by Merrill      Unanimously carried

Councilman Hammond recommended that Council consideration be limited to the recommendations of the Personnel Commission and the matter of a general 5% salary increase not be considered.

Councilman Adams objected to limiting the discussion.

SALARY INCREASE FOR SPECIAL CLASSES 8-110

The City Manager pointed out that the two points to keep in mind when considering this recommendation of the Personnel Commission and staff were, 1) that there are inequities between classes and 2) that these special classes are more out of line than other classes in the city service.

Councilman Adams stated it was very important that the city maintain the two step range differential between Patrolman I and Patrolman II

## MOTION

That the recommendation of the Personnel Commission for the 24 classes of positions in the city services, listed in its report to the Council and an additional one-range increase for the Janitor Leadman class, be approved as of August 1.

Moved by Adams      Seconded by Spaulding      Unanimously carried

Questions raised by Councilman Hammond on annual increases continuously being proposed for special classes were answered by City Manager Miller. Most of the changes proposed this year in the fire and police classes are the result of the Council not approving the previous recommendation of the Commission and staff. There will always be special needs in special classes due to change in employment conditions.

Mr. Masonheimer reported that the Commission had raised the same question raised by Councilman Hammond and had asked for a report. This report was read to the Council at this time.

Firemen's hours

Councilman Adams stated that it had been the Commission's recommendation last year that the hours of firemen be reduced but it had been turned down by the Council for want of some study of the outside activity and production. He considered that the current recommendation for reduction of hours should be delayed until the two studies recommended by the Commission were completed. He expressed concern that these studies were being delayed and suggested that if the Council delayed action again this year priority be given to the studies so that the matter could be cleared.

## MOTION

That the hours for firemen not be reduced at this time.

Moved by Mayor Marks      Seconded by Hammond      Unanimously carried

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2. The city is unable to recruit qualified personnel for a number of positions at present salaries;
3. The latest report shows that the cost of living through June, 1958 is 4.24% higher than it was one year before (this is up 3/4 of 1% since our recommendations were made).

Answering a question raised by Mayor Marks, the City Manager stated that his recommendations had differed only on one of the recommendations submitted by the Personnel Commission---that a general increase be allowed for all employees.

#### RECOMMENDATIONS SUBMITTED BY THE PERSONNEL COMMISSION

1. That the City of Modesto participate in the premium payment of a single group health insurance program for all city employees in the amount of at least \$4.00 per month and preferably all of the employees' premium, not to exceed \$5.00 per month;
2. That the working hours of Firemen be immediately reduced from 72 to 67.2 hours per week;
3. That a one-range salary increase be approved for the following classes of positions in the city service:
 

Janitor	Pump. Maint. Man	Parks Leadman	Sergeant
Laborer	Sewage Plant Operator	P. W. Leadman	Rec. Superin.
Pump Operator	Heavy Equip. Operator	Policewoman	Fire Marshal
Maint. Man	Traffic Painter	Rec. Super.	Lieutenant
Nurseryman	Tree Trimmer II	Lieutenant	Asst. Fire Chief
Parking Enforce. Off. Spec. Maint. Man		Captain	Police Captain

 and that an additional one-range increase be approved for the Janitor Leadman class.
4. That the City Council immediately consider the feasibility of a program similar to the Winston-Salem Fire-Police patrol operation, tailored to the special needs and resources of Modesto.
5. In conjunction with (4) immediate consideration be given to developing additional areas of increasing productivity of fire department personnel, in such possible fields as minor automotive maintenance and repair, operation of a central communications center, repair and maintenance of city machines, meters and equipment.

Mayor Marks believed that there would be no other single way in which the city employees would receive so much as by city participation in a health insurance plan. He pointed out that he had previously opposed the philosophy put was now convinced that due to changes, it would be good for the city to participate in a health insurance program for its employees.

Councilman Hammond stated that he was opposed to these continuous "ladeling out" health programs. A person should have the right to decide for himself what he wants, he considered. Although it might be good for the city, it wasn't for the individual.

Councilman Spaulding pointed out that employer participation lowered the rate, gave the program continuity which permitted the insurance companies to compute their statistics on a more accurate basis.

Councilman Arata considered that the employees would benefit because the group would be numerically increased thus creating a rate reduction.

Councilman Adams favored city participation and pointed out that the continual fear of a working man was the expense of major hospital and surgery care.

Introduced by Arata      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None                  Absent: Robinson

REPORT ON ALLOCATION OF FEDERAL FUNDS FOR PLANNING 7-20

With the unanimous consent of the Council, the City Manager reported on a matter not on the agenda - report on the present status of legislation in Congress. He stated that up to this date Congress has not yet included funds for allocation to cities and counties for the advance planning and other planning studies proposed by the city. The League is working on this matter, he stated, and his report was only to bring the matter to the Council members attention so that if they wished to indicate to their Congressmen their interest in having these funds continued it would be necessary to send a wire today because Congress will adjourn before the next Council meeting.

MOTION

That the City Manager send a telegram to Congress on behalf of the Council indicating its interest in the continuance of funds for the Planning aid program.

Moved by Merrill      Seconded by Hammond      Unanimously carried

HEARING ON SALARY MATTERS 7-30

The hour of 5:30 P.M. having arrived, the time set by the Council for consideration to salary matters. The City Manager noted that the report requested by the Council, 1) salary differential between Patrolman I and Patrolman II, 2) an analysis of the effect of closing the two range gap between these two classifications on the relationships of police and fire salaries had previously been distributed to the Council members (August 18, 1958-date of report).

He stated that the staff's recommendation was that the two range differential between Patrolman I and II be maintained. In view of the city's experience and knowledge of this matter, the city should not depart from this established standard which was recommended by the Commission and approved by the Council. He stated that the special salary adjustments for the 24 classes recommended are proposed to obtain the following objectives:

- 1- Equation between certain fire and police classes;
- 2- Minimum pay differentials of two ranges between fire and police supervisory levels;
- 3- To bring up the level of pay for the labor, maintenance man, etc. series of classes; and
- 4- To meet the serious salary competition for recreational leaders

Assistant City Manager Masonheimer stated that the number of employees involved in the 24 classes would be a little less than one-half of the employees in the city service or 150 employees.

The City Manager stated that these special adjustments were not related directly to a general increase except that both kinds of adjustments determine finally what salary levels will be. He stated there would be other salary problems which would be presented at a later date and indicated their nature.

He stated that basic facts which face the city in making decisions relative to general salary changes include:

1. Private employers and comparable cities are paying more for quality personnel than the city;

General increase in salaries

## MOTION

That since the Personnel Commission has not recommended an overall increase of salaries at this time--- that the matter be reviewed by the Council by December 1, in light of existing conditions and that the Commission and staff prepare a report on the matter.

Moved by Hammond                      Seconded by Arata      Unanimously carried

Mr. Masonheimer reported that the County had approved salary increases effective January 1, for certain library classifications which would require in accordance with existing city policy that the city also increase salaries for corresponding positions in the city services. Mayor Marks asked that the matter be presented later for consideration.

Councilmen Arata and Merrill left the meeting at 6:25 P.M.

DENY REQUEST OF NORTHERN CALIFORNIA YOSEMITE HIGHWAY ASSOCIATION INC. FOR ALLOCATION OF FUNDS FOR REBUILDING FINAL LINK IN OLD COULTERVILLE ROAD TO YOSEMITE 10-91

## MOTION

That the request be denied.

Moved by Mayor Marks                      Seconded by Hammond      Unanimously carried

Mayor Marks pointed out that the Council had gone on record approving the staff's cooperation in any way possible and that he was writing the Association a personal letter.

The City Manager reported that Director of Parking and Traffic was making a trip to the area on August 22.

FURTHER CONSIDERATION OF POLE SIGNS HELD OVER 10-115

The City Manager reported that sometime ago the Council had discussed the violation of the Code which had occurred when Jim Frazier had installed a pole sign on his north Tenth Street used car lot which was too close to the curb and over the height limit permitted without a variance.

He pointed out that if the Council wished certain limits can be set and no variances permitted. If this is desired the staff will check it out with the sign companies to determine the problems involved.

Mayor Marks suggested that the code regulations remain, eliminate the variance, which would not apply to Mr. Frazier and this would give Councilman Merrill, former member of the sign committee, an opportunity to consider the matter. The matter was held over for a future meeting.

AMEND CODE DEFINING TERM "CAPITAL OUTLAYS" 11-40

ORDINANCE NO. 256-C.S. entitled

"AN ORDINANCE AMENDING ARTICLE I OF CHAPTER I OF TITLE VIII OF THE MODESTO MUNICIPAL CODE BY ADDING SECTION 8-1.105 THERETO RELATING TO CAPITAL OUTLAYS"

was introduced and ordered printed and published as provided by the Charter.

Moved by Hammond                      Seconded by Spaulding  
 Ayes: Adams, Hammond, Spaulding, Mayor Marks  
 Noes: None                      Absent: Arata, Merrill, Robinson

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FURTHER CONSIDERATION OF CAPITAL BUDGET 11-47

The City Manager reported that the allocation proposed to get work started on the Communication Center and Alarm System expansion had not been cleared at the last meeting. He recommended that \$5,000 be approved, which was approved by the Council.

## RESOLUTION NO. 58-272

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$187,688 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL PROJECTS

Introduced by Adams      Seconded by Hammond  
 Ayes: Adams, Hammond, Spaulding, Mayor Marks  
 Noes: None                  Absent: Arata, Merrill, Robinson

The City Manager noted that as directed by the Council a report on the purchase of property for library purposes had been prepared. He reviewed the report and the discussion held last week----that the Library Board and the Planning Commission had recommended that a portion of the Library capital funds be used to purchase one half of the city's Fifteenth Street lot for \$70,000, and the suggestion by members of the Council for the purchase of the property adjoining the present library building. If this were done, \$70,000 could be made available for capital outlay purposes and it might be possible to complete the golf course so that it could be in use by next fall instead of one year from next spring.

## MOTION

That the staff be authorized to proceed on this basis and bring back the necessary documents.

Moved by Adams      Seconded by Spaulding      Unanimously carried

FURTHER CONSIDERATION OF REQUEST OF STANISLAUS COUNTY VETERAN OFFICE FOR COUNCIL ENDORSEMENT OF VETERANS BOND ACT OF 1958 PROPOSITION # 1 11-103

## MOTION

That the Council not endorse the act in conformity with its policy of acting only on matters directly affecting the city and the City Clerk advise the Veteran office.

Moved by Adams      Seconded by Spaulding      Unanimously carried

ADOPT PUBLIC STATEMENT ON COUNCIL'S POSITION ON PROPOSITION # 17 11-120

The City Manager read a resolution prepared at the direction of the Council relating to its position on proposition No. 17 on the ballot at the General Election on Nov. 4.

## RESOLUTION NO. 58-281

A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO EXPRESSING OPPOSITION TO PROPOSITION NO. 17 AND URGING THE VOTERS OF THE MODESTO COMMUNITY TO VOTE AGAINST THIS INITIATIVE MEASURE AT THE NOVEMBER 1958 ELECTION

Introduced by Hammond      Seconded by Adams  
 Ayes: Adams, Hammond, Spaulding, Mayor Marks  
 Noes: None                  Absent: Arata, Merrill, Robinson

CITY NOT TO INTERVENE IN PACIFIC SOUTHWEST LOCAL SERVICE CASE 12-19

The City Manager reported on the possible legal intervention in this

case and suggested that the city could probably make its point of view known by appearing as a witness for parties already in the case.

## MOTION

That the city not intervene in the Pacific Southwest Local Service Case and that the staff be authorized to proceed on the basis suggested.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

APPROVE APPROPRIATION TRANSFER OF \$800 FOR CORPORATION YARD BUILDING 12-26

## RESOLUTION NO. 58-282

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$800 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY FOR THE CORPORATION YARD BUILDING

Moved by Mayor Marks      Seconded by Hammond  
Ayes: Adams, Hammond, Spaulding, Mayor Marks  
Noes: None      Absent: Arata, Merrill, Robinson

APPLICATION FOR FRANCHISE TO OPERATE A WATER SYSTEM WITHIN THE CITY LIMITS FILED BY COLLEGE GARDENS WATER COMPANY 12-30

## MOTION

That this application be referred to the staff.

Moved by Adams      Seconded by Hammond      Unanimously carried

REPORT ON PETITION FROM PROPERTY OWNERS REQUESTING IMPROVEMENT OF CALIFORNIA AVENUE 12-30

The City Manager reported that the petition requesting street improvement on California Avenue, signed by 37 persons had been investigated by the Director of Public Works.

Mr. Ray has reported that the street from H to Franklin was improved in 1949, using gas tax funds for the construction of a 24' paved center section and oiling the shoulders. An inspection of the street on August 11 showed it to be in good condition with some minor pavement failure, primarily due to inadequate drainage conditions. The street is presently in much better condition than many miles of streets within the city, including miles of streets classified as major city streets. It is not recommended that any work be undertaken on this street at this time.

## MOTION

That the Clerk advise the circulator of the petition of the report of the Director of Public Works.

Moved by Mayor Marks      Seconded by Hammond      Unanimously carried

CITY ATTORNEY REPORT ON STATUS OF POLICE HOLIDAY PAY LITIGATION 12-36

The City Attorney reported that the claimants in this case had filed a notice of appeal to the District Court of Appeal from the judgment of the Superior Court.

REPORT ON DISTRIBUTION OF PLANS AND SPECIFICATIONS FOR CITY HALL 12-40

Mr. Campbell reported that the specifications provided that only intending bidders should apply for plans and specifications which the staff has interpreted to mean, general plumbing, electrical and mechanical contractors.

However, they have been issued to reinforcing and structural steel contractors. Sub-contractors are being referred to either general contractors, McHenry Library, Valley Builders Exchange, Bomberger's and local plumbing and building associations. 20 of 43 sets received have been issued already.

PROGRESS REPORT ON INSTALLATION OF SIGNALS ON H STREET AT MODESTO HIGH SCHOOL 12-90

The City Manager reported that Mr. Carmody was working with the schools and as soon as the High School is opened, further studies will be made on traffic volumes before the signals are installed.

REPORT ON APPLICATION TO P.U.C. BY TRANSCONTINENTAL BUS SYSTEM INC. AND OTHERS FOR RATE INCREASES

The City Manager reported that the city had not normally entered such cases and the staff would follow this practice unless directed otherwise. No special direction was given to the staff on this matter.

REPORT ON TAX RATE FOR FISCAL YEAR 1958-59

The City Manager reported that the city's carry-over was greater than anticipated and unless some changes are made on the basis of the staff's estimates, with last years tax rate, the unappropriated reserve, beyond those put in the budget, would be approximately \$175,000. This sum is greater than anticipated by the staff but it is good from the standpoint of fiscal strength.

This carry-over results from two things, the city has not expended as much as authorized and/or some revenues have been higher than anticipated. During the past few years the city has increased its carry-over until it has become a substantial item in the budget. It is important that this be known and understood since if in any single year all the funds were expended and the carry-over was not available the next year, it would present problems. He suggested that a careful analysis be made of this matter and of departmental budgets concerned and a report submitted to the Council for a long term fiscal program which would tend to reduce the carry-over by gradually lowering it to a smaller proportion of the budget. Two actions are available to the Council, retain the present \$1.47 tax rate or approve a reduced rate. A 2¢ tax reduction would mean a \$10,000 reduction in the city's revenue.

Councilman Hammond considered the city should always keep abreast of repairs and improvements to its physical plant.

The City Manager pointed out that one important factor to take into consideration was that the city for a period of 90 days, due to flood condition, could not proceed on many undertakings. Most of the carry-over has been rebudgeted for the 1958-59 fiscal year.

Councilman Adams considered that the city should not be in a position of reducing the rate, even by 2¢ if it would mean that the Council might have to "take a second thought when salary matters are reviewed in December". The City is constantly digging into its capital improvement fund and getting farther away from the original concept. Some of these expenditures should be shifted so that the carry-over would be reduced.

The City Manager pointed out that a report on this matter was being prepared which would clear the question raised by Councilman Adams. Answering a question raised by Mayor Marks, he stated that if the Council considered it wise to reduce the tax rate it could be done without jeopardizing this year's operation but it might be possible that it would have to be raised when the next year's budget is considered. He recommended that the rate be reduced two cents.

MOTION

That the staff be instructed to prepare an ordinance reducing the tax rate 2¢.

Moved by Hammond      Seconded by Mayor Marks

Mayor Marks declared that the motion failed to carry.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Adams      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 7:15 P.M.

ATTEST: Arne M. Collins  
ACTING CITY CLERK

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Hammond, Spaulding, Mayor Marks  
Absent: Councilmen: Merrill, Robinson

Councilman Robinson arrived at 7:35 P.M. and Councilman Merrill at 7:40 P.M.

The pledge of allegiance to the flag was given by all those present.

A few moments of silent prayer were observed.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of August 13, 1958, and the same being available for public inspection and there being no objections, the minutes were approved.

City Manager Miller being absent on vacation, Assistant City Manager Masonheimer acted in his place as City Manager Pro Tempore.

#### APPROVE REQUEST FOR \$350 FOR TRIP TO SACRAMENTO FROM THE MODESTO BAND INC.

A letter was read from the Modesto Band Inc. requesting an allocation of \$350 to partially defray the cost of transporting the Modesto Band to the State Fair in Sacramento.

#### RESOLUTION NO. 58-283

A RESOLUTION APPROVING TRANSFER OF \$350 FROM GENERAL RESERVE TO MUSIC AND PROMOTION FOR COST OF TRANSPORTATION OF MODESTO BAND TO STATE FAIR

Introduced by Arata      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Spaulding, Mayor Marks  
Noes: None      Absent: Merrill, Robinson

#### LETTER FROM NATIVE DAUGHTER SEWING CLUB OFFERING TO DONATE USED REFRIGERATOR TO THE MODESTO COMMUNITY SERVICE CENTER 1-30

A letter was read from the Native Daughter Sewing Club offering to donate a used refrigerator to the Modesto Community Service Center. Mr. Masonheimer reported that the offer had been checked, the refrigerator was needed to take care of some of the meetings held at the Center, and the staff would welcome the gift.

#### MOTION

That the offer be accepted and the City Clerk be authorized to acknowledge receipt of the gift.

Moved by Arata      Seconded by Adams      Unanimously carried

#### GRANT PERMIT TO LEAGUE OF WOMEN VOTERS TO INSTALL TABLE ON SIDEWALK AREA AT TENTH AND J STREETS TO REGISTER VOTERS 1-45

Mrs. Elton Hughes, Chairman of the League of Women Voters Committee on registration of voters, appeared before the Council to clear any questions raised by the Council on the League's request for permission to install a table on the sidewalk area at 10th and J Streets during the period of Sept. 2-11 to register voters.

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## MOTION

That the request be granted on condition the matter be cleared with the Chief of Police.

Moved by Spaulding      Seconded by Robinson      Unanimously carried

LETTERS RECEIVED BY MAYOR MARKS 1-60

Letters received by Mayor Marks, but not included on the agenda from the following persons, were read and ordered filed:

Frank Andrews relating to city's right to Hetchy Hetchy water.

Senator Thomas H. Kuchel and Administrator Albert M Cole of the Housing and Home Finance Agency acknowledging receipt of the Mayor's telegrams relative to continued federal assistance for local planning programs.

Director of Planning Smeath reported receipt of advice that funds would be available for the planning programs since Congress, at the last minute before adjournment, had included these funds with another bill and approval of the projects will be received within a few days. It was reported this was precisely the action requested by the Council last week.

FURTHER REPORT ON AID TO MERCHANTS ASSOCIATION TO OBTAIN CHRISTMAS STREET DECORATIONS 1-125

No dissent was expressed by the Council to raise this matter, which had not been included on the agenda.

The Acting City Manager reported that the Retail Merchants, Downtown Division was encountering some difficulty in securing Christmas street decorations which would be of satisfactory size and weight to install on the street light standards. Representatives from the decoration company will be in Modesto on August 28 to confer with the city staff and merchants and it is hope this matter can be cleared at that time. He asked for Council authorization for the Director of Public Works and City Engineer to approve whatever is finally decided upon so that the merchants would be able to make the purchase and avoid a week delay.

## MOTION

That the Director of Public Works and City Engineer be authorized to approve the type of Christmas street decorations to be purchased by the Retail Merchants, Downtown Division.

Moved by Arata      Seconded by Merrill      Unanimously carried

REPORT ON MEETING WITH HIGHWAY DEPARTMENT ON FREEWAY AND McHENRY AVENUE WIDENING PROJECTS 2-25

The Council members unanimously agreed that this matter, not included in the agenda, be considered.

Director of Public Works Ray reported on the meeting attended by the city staff with the Division of Highways representatives to discuss the McHenry Avenue widening project. He asked for Council guidance on the matter of traffic regulation on McHenry Avenue while the street was being paved and storm drains constructed. It was suggested that the Council express its approval of a recommendation that the State Highway Department keep open the street at all times even if it meant one-way controlled traffic on occasion. The construction will seriously interfere with traffic, which will find easier routes to follow on other streets in various sections adjacent to McHenry Avenue

Keeping the highway open has been proposed by the Division of Highways and the specifications will be drawn upon that basis, if approved by the Council in order to try to keep trucks from going onto residential streets which are not structurally designed to carry this kind of traffic. In the event there is a lot of traffic on the other streets, the city will get no reimbursement from the state for any alleged or actual damages incurred by traffic on those streets. If it is necessary to actually detour traffic for limited period of time, because of cave-ins which would obstruct the street completely then the state would reimburse the city for any costs incurred because of damage to street surfaces. The staff asks and recommends that the Council agree with that proposal.

Some utilities will have to be relocated and it is necessary for the city to secure agreements with the various utilities involved and submit to the state for approval. The city has already been working on this for the past several months.

#### cost

The storm drain construction/by the latest estimates appears to be somewhat higher than first estimated 3 years ago, but the staff has been orally assured that the project will proceed in accordance with the conditions of the agreement between the city and the Division of Highways which does not refer to costs of construction.

It appears at this time that the Division of Highways engineering staff will have the plans completed and be ready to call for bids during the month of December. Construction would be started approximately February 1, 1959. It appears from informal discussions that this project will extend over a period of one year. The storm drain would go down the center of McHenry Avenue, east on Morris Avenue where it would be located toward the north side because of other utilities in the street, and down the center of Bodem to Scenic. In the state's specifications controlled one-way traffic will just be in effect only when necessary and then only during the day, the pipe will be laid directly behind the excavation and back-filled immediately, so that there would be no long section of open trench. The purpose of this is to minimize access restriction to the bordering merchants as much as possible. The state is preparing the specifications to provide a minimum of inconvenience, but it must be recognized that there will be a good measure of it, as the work progresses. It was also agreed at the meeting that the city would write letters to all of the people involved on all of the streets, before the work started as a public relation gesture, informing them of the scope of the project and asking for their cooperation.

The proposed method for handling of the traffic might be more expensive but it is less inconvenient to the public and to adjoining businesses. Mr. Ray reported that the specifications would be filed with the city for checking before they are finally prepared. He asked for Council approval for the staff's recommendation regarding the fact that there will be no signed detours on other streets but the traffic will be permitted to use them if they so wish with the exception of truck traffic.

Mayor Marks suggested that since immediate approval was not necessary that the Director of Public Works embody the recommendations in a written report and submit it to the Council at a later meeting for Council action.

Mr. Ray pointed out that portions of Morris and Bodem Streets would be completely block/<sup>ed</sup>when construction was underway.

Director of Planning Smeath reported that the main points discussed concerning general highway matters included the present status of highway planning in the Modesto area, and how progress, mutually beneficial to both the state and city, could be achieved. The City Manager

will review this matter in greater detail at a later meeting, he stated.

He reported that the primary purpose of the meeting was to discuss at staff level, the progress to date by the state and the local area of studies concerning highways, including possible railroad separations and other related matters. There was general agreement on the following points:

- 1- The state master plan of highways, which is under consideration and study, is a long term program that cannot be completed for many years;
- 2- The Senate Assembly Concurrent Resolution No. 26, study report will not be released for many months and will then probably be set up for more detailed and lengthy consideration;
- 3- The state highway system as presently constituted in and through Modesto city and its environs is not entirely satisfactory to either the state or city and some consideration might be given to interim modification of the state system prior to over-all revision at a later date;
- 4- If the state highways entering the city, other than Highway 99, could be brought together on one route through the city as an interim measure this might be desirable and could best be done along a pair of one-way street couplets, either F and G Streets, H and I Streets or K and L Streets.

He stated that on the basis of the above discussions the staff proposed to present for Council consideration a proposal, which if approved, would be sent to the Division of Highways and Highway Commission recommending the following interim program:

- 1- That the state give immediate consideration to the possibility of bringing route 109 (McHenry Avenue) and Route 110 (Yosemite Avenue) together on one of the above listed one-way street couplets, intersecting State Highway 99 (9th Street) in the vicinity of Route 132 ( L Street);
- 2- That the construction of a railroad grade separation be considered on the above route selected with the city contributing a reasonable sum within its means, either in street construction, cash or otherwise to the railroad separation cost;
- 3- If this approach is deemed desirable and approved by both the city and state, studies now underway be completed within the next few months and the exact location of the street or streets to be used and the location and character of the railroad separation and its financing be determined.

Councilman Arata stated that as far as the overpass, crossing from east to west, is a problem of the state, we should not contribute anything. The state is creating the hazard and should pay for the whole cost of going over the 99 highway (9th Street) and railroads. As far as the streets in the city, this is a possible area of participation for streets are a responsibility of the City.

Mayor Marks suggested that any further discussion be withheld until the City Manager made his report and presented the proposal to the Division of Highways and the Highway Commission.

#### HEARING ON THE PROPOSED ANNEXATION OF NORTH PARK ADDITION 3-70

Mayor Marks announced that the hour of 8:00 P.M. had arrived, the time set for the public hearing on the proposed annexation of the

Northpark Addition to the City of Modesto.

The City Clerk certified that notice of the public hearing had been published in the manner prescribed by law; that notices were mailed to property owners in the area and that no written protests had been received.

Director of Planning Smeath reported that the Planning Commission had recommended the annexation.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No comments were made or oral protests filed. Mayor Marks declared the hearing closed.

ORDINANCE NO. 257-C.S. entitled

"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE NORTH PARK ADDITION TO THE CITY OF MODESTO"

was adopted and ordered printed and published as required by the Charter.

Moved by Adams      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None            Absent: None

AUTHORIZE INSTALLATION OF WATER MAINS IN BEL AIR SUBDIVISION AND NORTHGATE SUBDIVISION BY FORCE ACCOUNT 3-70

The acting Manager reported that no bids were received and recommended that the work be done with city forces. The engineer's estimated cost of construction is \$1988.70.

RESOLUTION NO. 58-284

A RESOLUTION AUTHORIZING THE INSTALLATION OF WATER MAINS IN BEL AIR SUBDIVISION NO. 2 AND NORTHGATE SUBDIVISION NO. 2

Introduced by Hammond      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR IMPROVEMENT OF CERTAIN STREETS 3-100

RESOLUTION NO. 58-285

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR UNIT A: ROSEBURG IMPROVEMENT FROM MILLS AVENUE TO VIRGINIA, UNIT B: ORANGEBURG CROSSING OF THE TIDEWATER RAILROAD, AND UNIT C: BRIGGS-MORE CROSSING OF THE TIDEWATER RAILROAD

Introduced by Hammond      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

The time set for opening of the bids was Sept. 8 at 3:00 P.M.

FINAL ADOPTION OF ORDINANCE NO. 255-C.S. REZONING MAZOROS PROPERTY ON TULLY AVENUE 3-110

ORDINANCE NO. 255-C.S. entitled

"AN ORDINANCE AMENDING SECTION 20 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON"

introduced on August 20, and having been printed and published as required

by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None              Absent: None

FINAL ADOPTION OF ORDINANCE NO. 256-C.S. AMEND CODE DEFINE "CAPITAL OUTLAYS"  
 3-113

ORDINANCE NO. 256-C.S. entitled

"AN ORDINANCE AMENDING ARTICLE I OF CHAPTER I OF TITLE VIII OF THE MODESTO MUNICIPAL CODE BY ADDING SECTION-8-1.105 THERETO RELATING TO CAPITAL OUTLAYS"

introduced on August 20, and having been printed and published as required by the Charter and coming on for final consideration, was moved and adopted.

Moved by Hammond      Seconded by Spaulding  
 Ayes: Adams, Hammond, Arata, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None              Absent: None

ADOPTION OF ORDINANCE ESTABLISHING TAX RATES FOR FISCAL YEAR 1958-59      3-115

Mayor Marks reviewed the discussion held at the last Council meeting, for the information of those members who had not been present on the possibility of reducing the tax rate two cents.

Points brought out in further discussion of the matter were:

- 1- That if the tax rate should have to be increased later, the people will go along with the increased rate if it had been reduced whenever possible, but if it is always either raised or "the line is held" the people will question it;
- 2- That if "the line is held" it is actually a tax rate reduction because of the inflationary trend;
- 3- That as far as agricultural products are concerned, prices are lower this year, so if "the line is held" it would mean an increase; Modesto is concerned chiefly with a farm economy and the yield this year is much less than in former years;
- 4- The Council should recognize the situation in the community is that the ability to pay taxes is not as good as it was last year, the city operates as a service institution and is not a profit making institution and when the ability to pay is less than the requirements should be curbed;
- 5- The 2¢ tax reduction was primarily a matter of principle since the savings would only be \$10,000;
- 6- That the city is in sound economical condition, but that the \$10,000 represented by a 2¢ tax rate could be used on many deferred projects;
- 7- That the discussion involves a matter of principle and not a matter of great economic import.

ORDINANCE NO. 258-C.S. entitled

"AN ORDINANCE FIXING THE RATE OF TAXATION IN AND FOR THE CITY OF MODESTO FOR THE FISCAL YEAR 1958-59"

was adopted and ordered printed and published as required by the Charter.

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Moved by Arata      Seconded by Merrill  
Ayes: Arata, Hammond, Robinson, Merrill, Mayor Marks  
Noes: Adams, Spaulding      Absent: None

Mayor Marks reminded the members that the City Manager had reported that the reduction in the tax rate would not interfere in any way with the 5% salary increase for the city employees to be reviewed again prior to the first of the year.

The rate established in the ordinance adopted provided for a reduction of 2 cents per \$100 assessed value.

CITY HALL MATTERS 4-110

The Acting Manager reported on proposed changes in the plans and specifications for the city hall previously discussed by the Council, some to be handled in the form of change orders and other by addenda:

- 1- Seating arrangement at the Council table---relative arrangement of seats occupied by Councilmen and by the City Manager and City Attorney.
- 2- Proposed fountain in the court.

Other items which needed to be changed in the plans and specifications:

- 1- Relocation of emergency generator room due to the arrangement of the M.I.D. transformer vault already constructed, to be moved to the east toward 11th Street far enough to provide the additional room for the exhaust from the power vault.
- 2- Seating facilities for the public in the Council Chamber. This should not be included in the general contract in order to permit the Council to select a better and more practical type of seating facility.

Mr. Masonheimer read a letter from the American Seating Company pointing out that the specifications included an item for seating and suggesting that the type proposed would not be satisfactory in the new modern city hall proposed. The company offered to assist the staff in developing some specifications which would permit any seating company to bid for the seating to be furnished. The staff recommends that the architect be instructed to issue an addenda to the plans and specifications, removing the seating from the general construction.

- 3- Wood dividers between the concrete bricks in the court are to be replaced with brick dividers.
- 4- To interchange the location of the telephone equipment room and the electrical switch board room due to the location of the M.I.D. Transformer vault.
- 5- Authorize the staff to prepare and issue additional addenda as are needed to interpret or to describe in greater detail the plans and specifications.

RESOLUTION NO. 58-286

A RESOLUTION APPROVING CERTAIN ITEMS TO BE CHANGED BY ADDENDA IN THE PLANS AND SPECIFICATIONS FOR THE CITY HALL

Introduced by Hammond      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

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Mr. Masonheimer reported that 14 sets of plans and specifications had been issued to general contractors, 4 to plumbing contractors, 3 to electrical contractors, 6 to mechanical contractors, 5 to reinforcing and structural steel contractors, and 8 to miscellaneous offices and building associations, public library, etc. to be used by sub-contractors who are not eligible to receive full sets. Additional contacts are being made through the architect's office in both the San Francisco and Los Angeles area.

APPROVE APPROPRIATION TRANSFER OF FUNDS FOR IMPROVEMENTS ON 17TH AND L STREETS 5-120

RESOLUTION NO. 58-287

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$2,550 FROM SPECIAL CAPITAL OUTLAY RESERVE TO SPECIAL CAPITAL OUTLAY FOR COMPLETION OF THE CONTRACT FOR RECONSTRUCTION OF L STREETS, 10TH TO 14TH AND 17TH STREET FROM H TO I STREETS

Introduced by Spaulding      Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

ACCEPT CONSTRUCTION OF 10 UNIT T HANGAR FROM R. J. NAYOR COMPANY:  
AUTHORIZE PAYMENTS DUE AND RECORDATION OF NOTICE OF COMPLETION 6-05

RESOLUTION NO. 58-288

A RESOLUTION ACCEPTING THE CONSTRUCTION OF ONE TEN UNIT T HANGAR AT MODESTO CITY-COUNTY AIRPORT BY R. J. NAYLOR COMPANY

Introduced by Merrill      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

FURTHER CONSIDERATION OF POLE SIGNS 6-23

Pursuant to holding over further consideration of pole signs until Councilman Merrill could be present, Mayor Marks opened the discussion at this time.

City Engineer Ross Campbell displayed a sketch illustrating the types of signs regulated by the Municipal Code, <sup>showing</sup> the maximum and minimum heights, set back regulations, area limits, side and sidewalk clearance restrictions. One question before the Council is whether 35 feet maximum height is sufficient for signs. He reported that he had checked with various manufacturers of signs and determined that generally signs are not manufactured as a stock item but made to order to suit the customer. Another question to be resolved is whether variances from maximum heights should be allowed. He stated that the staff's recommendation was that the height limits be maintained but that there appears to be some reasonable argument for keeping a variance provision. He further reported if the regulations controlling pole signs are to be revised, similar consideration should be given to other sign standards which also contain variance provisions. He stated that local sign companies had been notified this matter would be discussed so they could present their ideas.

Councilman Merrill pointed out that the Council sign committee had worked with sign company representatives and other groups for over 3 years and had agreed on the existing regulations. He recommended that the regulations not be amended.

Mayor Marks stated that the companies, in order to meet competition, must know where the Council stands on the limitation of height and the granting of variances. He pointed out that it would be possible for one

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sign company to create an artistic design for a customer which meets the code regulation and another company to create a better looking sign which would not meet the height regulations and sell the customer. Competitive wise the companies should not be allowed to have variances.

Bob Powell, representing Sign Designs, stated the city's sign regulations were inadequate as compared to other cities, which had no height limitations, as long as they conform to the building code requirements. He recommended that the code provisions be amended to eliminate height limitations and variances.

Upon being asked if this discussion was to determine whether or not a variance would be granted to Mr. Frazier to have a pole sign in excess of 35 feet, Mr. Campbell stated that acting on the pole sign on Tenth Street, installed by Mr. Frazier had been deferred until Council determines whether or not the variance provisions will be retained in the Municipal Code. At that time, he said, Mr. Frazier had stated he will either comply with the law or seek a variance. The City Engineer also reported the company which had manufactured this sign also makes pole signs in 10', 15', and 30' heights.

Lew Papaies, representing Ad-Art Sign Company, stated that the size of signs needed is determined by the size of a business; for example, a motel with 60 units would require a much larger one than a motel with 10 units. He considered it unfair to limit the height of a sign, particularly if there was a blocking problem such as trees, a building next door, etc. The elimination of the variance provisions would be objectionable because there might be hardship cases where a larger sign was absolutely necessary to be visible to the travelling public. It is an exception instead of the rule, he pointed out, for a city to have a maximum height restriction. He considered that the city's height limitation of 35' was inadequate because in many instances it would not be large enough to "get the message over".

Mayor Marks pointed out that the basic reason for sign regulations was aesthetics combined with safety factors.

Mr. Masonheimer stated that the present standards in the sign regulations had been developed after a long period of study and seemed to be adequate for the purposes for this community. Up until this point, there has been no questions raised. As far as the variance provision is concerned, he stated, there has been no trouble, but as a matter of principle, if the staff had a choice, as administrators of the ordinance, it would rather not have it. There might be a time when hardship might result if the variance provision was eliminated. Whether or not there will be variances is a matter to be decided by the Council. If this provision is removed it is recommended that the height standards remain as they are at present.

General Council discussion was held and the following points presented:

- 1- That the variance procedure should remain, as it has not been abused and practically no variance requests have been filed during the term of the regulations. It will act as a thermometer, and as demand develops it can be determined when the regulations should be amended.
- 2- If the variance provision remains, it would permit unfair competition as the companies will be trying to sell larger signs and come to the Council for a variance.
- 3- Government will act as an umpire in interpreting the regulations to determine the change in conditions.
- 4- To grant unlimited variances would be unwise and they should be decided individually on hardships existing. Hardship is defined to mean a case where for certain reasons a man cannot use a sign of a certain size or shape.

- 5- Whether or not a variance provision existed in an ordinance any Council in office can change and amend code regulations to meet the existing situations.
- 6- That sign industry recognize the limitations in the code and "live within these limitations and restrictions like all other people".
- 7- That it would be possible to refuse to grant "after-the fact" variances.

It was indicated by members of the Council that if Mr. Frazier filed a request for a variance it would be considered on the basis of the facts contained in the request, and that no general change would be made to the present provisions regulating sign standards.

CONSIDER SALARY MATTERS 8-105

As directed by the Council, Mr. Masonheimer presented a resolution authorizing city participation in the premium payment for a group health insurance plans for city employees.

RESOLUTION NO. 58-289

A RESOLUTION AUTHORIZING CITY PARTICIPATION IN THE PREMIUM PAYMENT FOR A GROUP HEALTH INSURANCE PLAN FOR EMPLOYEES OF THE CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE INSURANCE APPLICATION FORM ON BEHALF OF THE CITY AND AUTHORIZING PAYROLL DEDUCTION FOR PREMIUMS IN EXCESS OF CITY PARTICIPATION

Introduced by Adams      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

CONSIDER HEALTH INSURANCE PLANS FOR CITY EMPLOYEES 8-115

Mr. Masonheimer stated that the health insurance plan submitted for Council approval was the same plan discussed in the report sent previously to each member. Subject to Council approval the existing plan will be modified to increase the maximum major medical coverage from \$5,000 to \$10,000. The employee's premium will be \$4.08 per month and dependents premium \$8.52 per month. The plan provides for 100% of hospital expenses to a total of \$500 and 80% in excess of this amount to a maximum of \$10,000; 80% of medical and medicinal costs (ordered by a physician) in excess of a deductible amount of \$25 per year. He stated, representatives of the various city employees associations agree that in order to get this plan instituted as quickly as possible, time should not be taken to consider amending the present plan at this time. However, he reported, this is not the plan discussed with the Council approximately one year ago, when the matter of group insurance premium participation was first submitted to the Council. For example, it does not have life insurance or maternity benefits.

In the interest of getting the plan instituted by the first of September, it is recommended that the existing plan not be changed except for the maximum coverage, but that Council, at a later time, consider modifying the plan to include the desirable features in the original plan. He asked for Council approval of the existing plan as modified and presented.

MOTION

That the existing plan be approved.

Moved by Arata      Seconded by Merrill      Unanimously carried

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## MOTION

That Giddings Brothers Inc. be appointed as broker of record for the group health insurance plan, as recommended by Modesto Insurance Agents' Association.

Moved by Arata      Seconded by Merrill      Unanimously carried

APPROVE INCLUSION OF FIRE TECHNICIAN IN GROUP OF CITY EMPLOYEES GRANTED SPECIAL SALARY ADJUSTMENTS 9-26

Mr. Masonheimer reported through error the fire technician, a classification in the same salary range as fire lieutenant, was omitted from the formal recommendation for special salary increase and he recommended this one position class be retained in the same salary range as fire lieutenant.

## MOTION

That the fire technician classification be included in the group of special classes granted a special salary adjustment.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

ESTABLISH SALARY SCHEDULES 9-46

## RESOLUTION NO. 58-291

A RESOLUTION ESTABLISHING SALARY SCHEDULES AND FIXING THE COMPENSATION FOR POSITIONS IN THE CITY SERVICE

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

## RESOLUTION NO. 58-292

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$41,938 TO SALARIES AND WAGES FOR SALARY ADJUSTMENTS AND TO MISCELLANEOUS UNCLASSIFIED BUDGET FOR GROUP HEALTH INSURANCE

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

Councilman Adams reviewed the action taken by the Council at the previous meeting on the question of a 5% salary adjustment for all employees and on firemen's hours; it would be reviewed by the Council prior to the first of the year in line with the current economic conditions, and a report would be submitted by the Personnel Commission and staff prior to December.

FURTHER CONSIDERATION OF LETTER FROM A. M. ROSE 9-100

Mayor Marks reported that he had contacted Mr. Rose and he had agreed to withdraw his letter of resignation from the Board of Zoning Adjustment.

REPORT ON PARKING TIME LIMITS FOR GRANT AND JONES STREETS 9-106

Copies of a report sent to Council members previously on "parking time limits on Grant and Jones Streets" by Director of Parking and Traffic Carmody was noted and ordered filed.

FURTHER REPORT ON MOTOR BUS SERVICE REQUEST FOR FARE INCREASE 9-106

The report was noted by the Council.

CONSIDER APPLICATION FOR TRANSCONTINENTAL BUS SYSTEM FOR FARE INCREASE 9-110

Mr. Masonheimer briefed the report prepared by the Director of Parking and Traffic indicating that the fare from and to Modesto on the "Five Star Luxury Service" would be raised. The matter was noted and ordered filed.

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CONSIDERATION OF PLANNING MATTERS 9-105

## RESOLUTION NO. 58-293

A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING BEFORE THE COUNCIL OF THE CITY OF MODESTO ON A PROPOSED AMENDMENT TO SECTION 16 OF THE ZONING MAP (Mark Randy)

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding  
 Noes: None                      Absent: None

The time set for the hearing was 8:00 P.M. September 24, 1958.

## RESOLUTION NO. 58-294

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE ZLAB SUB-DIVISION NO. 2 ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Hammond      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

The time set for the hearing was 8:00 P.M. October 8, 1958.

REPORT ON REDESIGN OF PROPERTY 10-07

Mr. Smeath displayed a sketch of the property bounded by Alma, McHenry, Roseburg and Orangeburg Avenues, showing one of several proposed plans for the redesign of the area. He stated that the question has arisen, as a result of the request to dedicate additional right of way for the widening of McHenry Avenue. Complications arose because the property west of McHenry, zoned commercial presently, is only 115 feet in depth with a dedicated alley 20 feet wide, not yet opened or improved. The residential property facing Alma Avenue and backing on the commercial property is 140 feet deep. On the residential property there are deed covenants and the people living west of Alma are interested in preserving the residential values and not permitting commercial development to encroach. Since the property on McHenry is so shallow, the owners find it difficult to deed the 18' right of way necessary for the widening project.

Many proposals to solve the problems have been presented and many discussions have been held with the owners and the Commission. There is a recommendation now presented to the Commission, to the interested property owners and now to the Council for approval, that the alley be relocated west and the present alley closed and vacated; the sewer line in this alley be abandoned and a new one constructed in the new alley which would be located 100 feet east of Alma instead of 140'; that the alley be 24 feet wide, that the property owners pay the costs for improving the alley, put in a six foot wooden fence along the west side of the alley; and finally, dedicate the property to the city for McHenry Avenue widening. It is proposed that the City assist in the project to the extent of furnishing a new sewer line in the alley. All of the property owners have not yet agreed on the plan. The owners of the present 40 feet have agreed to sell to the abutting commercial owners at residential property prices.

Mr. Smeath stated that it is proposed to change the zoning line westward to the center of the alley and the existing parking lot be permitted to remain as a non-conforming use under the terms of an existing use permit.

## MOTION

That the staff be instructed to proceed on the basis outlined by the Director of Planning.

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Moved by Arata      Seconded by Hammond      Unanimously carried

At the request of Councilman Adams, Mr. Smeath briefly listed other alternates which had been considered by the staff, owners and Planning Commission.

REPORT FROM      PLANNING COMMISSION ON MEETING WITH WESTERN PACIFIC  
OFFICIALS ON PLAN FOR MODESTO INDUSTRIAL PARK      10-80

Copies of a report on the meeting held with officials of the Western Pacific officials to discuss a plan for Modesto Industrial Park were distributed to the members for study and consideration at a later date.

MATTERS FOR CONSIDERATION OF THE COUNCIL AND GOOD OF THE COMMUNITY 10-90

Mayor Marks stated that the present zoning regulations provide that decisions of the Board of Zoning Adjustment may be appealed to the City Council. He asked that the members be considering the possibility that the zoning regulations be changed to provide that any appeal from decisions of the Board be made to the courts and not to the Council.

CONSIDER CONDITION OF VACANT LOTS IN CITY AND THE SOUTHERN PACIFIC RIGHT  
OF WAY 11-5

Councilman Arata recommended that the Southern Pacific Company be asked to remove the weeds from its right of way through the center of the city. He also pointed out that the company was not living up to its agreement to maintain the park area in front of its station on Ninth Street & J Street. Sunflowers growing near the dangerous intersection of B and Seventh Street have been allowed to grow so tall along the right of way that they are a sight restriction for motorists driving off the bridge. Many vacant lots throughout the city are covered with weeds, some on the main entrance to the city. The city should have a continuous program throughout the summer season of requiring the removal or discing of the lots even if it has to be done two to three times a season. This could be done by the city and a bill sent to the owners or the owners could be forced to take care of these weeds. Dead trees have been allowed to remain on Maze Road at Jefferson Street, entrance to the city from the West side. These trees, which have been dead for a number of years, are a hazard to children walking in the area. These trees should be condemned and removed by the owners or by the city with costs to be assumed by the owners. The sidewalk at this intersection is covered by weeds.

Councilman Adams reported that he had noticed a lot of puncture vine on vacant lots and the northern section of the S.P. right of way.

Mayor Marks was authorized to write a letter to the company asking that the right of way be cleared of weeds. A complete report should be submitted by the staff on the matter of clearing lots of weeds and other undesirable material.

Councilman Spaulding noted that on some of the streets in the downtown area the space between the sidewalk and curb was full of weeds.

Councilman Adams pointed out that the magnitude of the weed problem might find the city with its own weed crew.

Mr. Masonheimer stated there were several ways it could be accomplished which would be included in the report.

CONSIDER NOTICE OF P.U.C. HEARING ON INVESTIGATION OF PROPER PROCEDURE TO BE  
ALLOWED FOR ACCELERATED DEPRECIATION AND AMORTIZATION FOR RATE FIXING  
PURPOSES 11-90

Mr. Masonheimer reported that the P.U.C. had set hearings to discuss the matter of proper allowance for rate fixing purposes of accelerated amortization and accelerated depreciation. There appeared to be adequate protection of the public on this matter from the number and source of the presentations to be made as indicated in the notice. No action by the Council was needed, he stated. The matter was noted and filed.

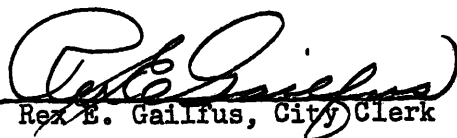
ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:

  
Rex E. Gallus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were  
Present: Councilmen: Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Absent: Councilmen Adams and Robinson

Councilman Robinson arrived at 4:06 P.M.

City Manager Miller being absent on vacation, Assistant City Manager Masonheimer acted in his place.

The pledge of allegiance to the flag was given by all those present.

Rev. Lawrence Cruzen gave the invocation.

APPROVE TERMINATION OF LEASE WITH CENTRAL CALIFORNIA ART LEAGUE 1-05

A letter from the Central California Art League was read requesting that its lease of Room 102 in the Modesto Community Service Center be terminated as of October 1.

MOTION

That the City Attorney be instructed to prepare the documents to effect the cancellation as of the date requested.

Moved by Merrill Seconded by Hammond Unanimously carried

LETTER FROM CALIFORNIA ROADSIDE COUNCIL RE: HEARING BY SENATE SUB-COMMITTEE ON TOTAL PROBLEM OF BILLBOARD CONTROL 1-30

The communication was briefed by Acting City Manager Masonheimer and ordered filed.

AUTHORIZE NEW CALL FOR BIDS FOR SUB-TRUNK SEWER IN COFFEE ROAD TO ZLAB NO 2 SUBDIVISION 1-46

Director of Public Works Ray reported that no bids had been received for the construction of a sub-trunk sewer in Coffee Road to Zlab No. 2 subdivision at the time scheduled for opening of bids at 2:00 P.M., Sept. 2. He recommended that a new bid call be made for 2:00 P.M., Sept. 15.

RESOLUTION NO. 58-295

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING CALL FOR BIDS FOR CONSTRUCTION OF SUB-TRUNK SEWER IN COFFEE ROAD TO ZLAB NO. 2 SUBDIVISION

Introduced by Arata Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None Absent: Adams

APPROVE APPROPRIATION TRANSFER OF FUNDS FOR BACKSTOPS AT J. M. PIKE AND THOMAS B. SCOTT PARKS 1-60

## RESOLUTION NO. 58-296

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$520 FROM GENERAL RESERVE TO CAPITAL OUTLAY FOR BASEBALL BACKSTOPS IN J. M. PIKE AND THOMAS B. SCOTT PARKS

Introduced by Arata      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None      Absent: Adams

FURTHER DISCUSSION ON CODE REGULATION OF LOCKING IGNITION ON VEHICLES  
1-62

Pursuant to the request of Councilman Spaulding that this matter be placed on the agenda for further Council discussion, Mayor Marks asked the City Attorney to review the actions taken by the Council and the existing provisions of the Municipal Code.

City Attorney Grimes read the provisions of the section and pointed out that if it was the desire of the Council to eliminate or repeal section 3-2.814 of the Code relating to the locking of the ignition, a motion instructing the City Attorney to prepare an ordinance accomplishing this would be in order, but if it is desired to leave the existing regulation as it is, no action would be necessary.

Enforcement problems discussed by the Council members with Police Chief Bowers related to vehicles making deliveries, such as mail trucks, milk trucks, grocery trucks, etc. Chief Bowers pointed out that passenger cars were the basic problem and that the enforcement was aimed at the problem. Postal trucks are exempt and delivery trucks are not cited, he stated. He estimated the ratio of theft of delivery vehicles as compared to passenger vehicles parked with keys remaining in the car, to be insignificant, perhaps 1 to 500 or more.

Councilman Merrill spoke in opposition on the basis that people from other cities who came to Modesto to shop would be unaware of the regulation. When they received a citation they might discontinue shopping here. If the law was state-wide, he contended, there would be no objection.

Councilman Spaulding considered that this legislation was a wrong function of municipal government, which is set up principally to provide services to people not to protect them from every little error they might make in judgment. Enforcement presents many problems; a vigorous and large police patrol force would be necessary, if the city intends to enforce it. An officer would have to patrol on foot, stop and look into the vehicle and in many cases enter the vehicle to determine if the ignition was locked. It would be better to use this additional personnel to provide a more adequate general police patrol, because the best deterrent to crime is certainty of punishment. The person who would be cited would be the one who was cited for some other infraction, such as overtime or wrong parking while there would be other persons allowed to go free who were violating the regulation, thus creating bad public relations.

Councilman Spaulding stated that it was bad public relations for the city government and its own citizenry to add a thing like this, when it is uncertain that it is going to accomplish anything but provide a good barb for anybody who gets picked up and who wants to be unhappy with the city government. Government should try to sell itself just as business has to, and it should avoid the things which are nettles to the people. He contended that there were too many variables in the statistics on theft of cars to arrive at a conclusion on this basis. His opposition was based on the principle that this regulation goes too far in restricting personal freedom.

Councilman Hammond pointed out that many thefts occur where young people, while walking down a street, have observed keys left in a car. He recognized that this regulation would be rather ineffective against professional thieves, but the main purpose was to curb the impulse tendency of thefts primarily involving youths. He considered that this provisions was in the same category as other traffic regulations, such as stop signs, speed limit signs, etc., that every motorist is confronted with as part of his responsibility in owning a vehicle. A owner is also responsible to lessen the opportunity of theft.

Mayor Marks pointed out that the Council had always gone on the theory that the government which governs the least, governs the best. He pointed out that the problem involved was juvenile delinquency but questioned the advisability of the regulation on the basis that it should be statewide if it was a generally recognized problem. The legislation is for a small percentage rather than the general public. How will people react if the regulation is repealed, he asked.

Police Chief Bowers believed that it would have no sustained effect. He pointed out that the regulations had not been in effect sufficiently long to determine results with any degree of accuracy. However recently fewer thefts of automobiles with keys left in them have occurred. The position of the Police Department, he stated, is the fewer laws the better because it is less confusing and life is simpler. He stated that problems generally precede legislation and in this instance there is a problem. This solution was presented to the Council and the Department asked that this "tool" be provided. If in the judgment of the Council this is not the time or if this is not the proper tool, etc. the Department will continue to be in business investigating more auto thefts of the "joy riding" variety.

Mayor Marks suggested that further statistics be compiled by Chief Bowers, possibly over a six months or one year period, before any further action was considered by the Council.

Chief Bowers reported that so far only one ticket had been issued by the Department since a warning basis was being used first to educate the public.

Councilman Robinson considered that additional time would give the Council a better opportunity to determine if the law was needed.

Mr. Masonheimer agreed that this matter is one of principle and whether this is the proper law for this city at this time is a decision for the Council. However, he pointed out, there are many areas where the Council imposes regulations, both on public and private property, that are more restrictive than this regulation. This regulation is for the benefit of the whole community and will involve an educational process just as many other regulations do.

Councilman Hammond stated that leaving a key in a car is carelessness and as a citizen he objects to the increased police and insurance cost entailed in apprehending the thief. He objected to having youngsters faced with the opportunity of getting into difficulty where ordinarily they would not be faced with it.

Police Chief Bowers upon being asked, listed a few cities which had this type of regulation. A number have passed similar legislation within the past year, he stated.

#### MOTION

That the City Attorney be instructed to prepare an ordinance amending the Municipal Code to repeal the sections

Moved by Arata      Seconded by Merrill

Mayor Marks directed the City Clerk to call the roll on the

motion.

Ayes: Arata, Merrill, Spaulding

Noes: Hammond, Robinson, Mayor Marks

Absent: Adams

Mayor Marks declared that the motion failed to carry.

#### MOTION

That a complete statistical analysis and report be made by Police Chief Bowers on the cities which have this provision, indicating how it is working out, time the cities adopted the regulations; that a system of statistical records be established, if possible, to include a tally on citations issued to residents and non-residents of Modesto; and the number of juvenile infractions compared to the number prior to the adoption of the regulation.

Moved by Robinson      Seconded by Hammond

After a roll call, Mayor Marks declared that the motion carried.

#### PROGRESS REPORT ON McHENRY AVENUE PROJECT 4-80

Copies of a report prepared by the Director of Public Works, dated Sept. 2, 1958, entitled "Progress Report on McHenry Avenue Project", which had been requested by the Council at its last meeting, were distributed to the members. A copy of this report is on file with the records of this meeting.

Mr. Masonheimer called attention to two matters upon which Council action was recommended, 1) traffic control on McHenry Avenue during the construction and 2) possible damage of street trees during construction and proposal that the city accept the responsibility for such damage by trimming or removal but requiring the contractor to exercise due caution in his operations.

#### MOTION

That the Council agrees with the principle proposed in the report for the routing of traffic on McHenry Avenue during the construction and authorizing the staff to so notify the Division of Highways so that the specifications can be completed.

Moved by Spaulding      Seconded by Hammond      Unanimously carried

#### MOTION

That the recommendation for the care of trees during the construction period outlined in the report be approved.

Moved by Robinson      Seconded by Arata      Unanimously carried

#### APPROVE AGREEMENT FOR RENTAL OF PANCAKE ALLEY RESTAURANT TO PAUL CROSS ET UX 4-106

#### RESOLUTION NO. 58-297

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND PAUL J. CROSS AND FARIDA CROSS FOR RENTAL OF STORE ROOM LOCATED AT 905-907 COMMERCIAL WAY IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Spaulding  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None              Absent: Adams

APPROVE AGREEMENT FOR RENTAL OF HOUSE ON CARVER ROAD TO D. M. CRISS 5-06

RESOLUTION NO. 58-298

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND D. M. CRISS FOR THE RENTAL OF DWELLING AND LOT LOCATED AT 1435 CARVER ROAD IN THE CITY OF MODESTO

Introduced by Merrill      Seconded by Arata  
 Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None              Absent: Adams

REPORT ON CITY HALL MATTERS 5-16

Mr. Masonheimer distributed copies of a folder prepared by the American Seating Company on the various styles of seating available for the Council Chamber. He pointed out that the prices might vary from approximately \$20 to \$35 per seat, depending upon style and quality. He stated the material presented was for information only and did not imply a staff recommendation at this time, and suggested that before type and color was decided on, the advice of a furniture consultant be sought.

Mayor Marks directed that the staff confer with the Architect and agree on alternatives to be recommended to the Council.

Mr. Masonheimer pointed out that selection of style, plans and specifications for the seating would be prepared in such a manner that a number of seating companies could submit bids.

Mr. Campbell reported that 19 general contractors had taken out bids on the new city hall, and at least five contractors in the plumbing, electrical and mechanical field. He said the architect considers that this number indicated that reasonable bids will be received.

The addenda for the specifications, approved by the Council at its last meeting, will probably be received from the Architect by Sept. 8, 1958 for distribution to the bidders. The number of plans and specifications being called for now is dwindling and the architect has recommended that no more sets be ordered by the city. If a request is filed it will be pointed out to the applicant that time is growing short for an adequate bid to be prepared but if they insist a set will be ordered for them.

GARDEN REFUSE DISPOSAL REPORT 6-90

Report prepared by the Director of Public Works, "Garden Refuse Disposal", dated Sept. 3, 1958 a copy of which is on file with the records of this meeting, was discussed by the Council.

Mr. Ray reported that the report had been discussed and approved in principle by the members of the Council Garbage Committee. It is proposed, subject to Council approval, to try composting garden refuse on an experimental basis. The present disposal program must be discontinued as soon as possible and this system might present an opportunity, though there may be complications involved in this operation. A site available at the sewage treatment plant can be utilized for this purpose. The material obtained would be valuable if it can be properly processed. At this point, the initial expense to get started would be \$1200 to revise a piece of equipment but there will be other expenses, such as road oiling, etc. The remainder of \$1250, appropriated in funds available from the 1958-59 budget for the present cut and cover operation could be used for operating expenses though that amount would not be adequate for the year's operation. Other funds could be made available from the Capital Outlay Fund.

Mr. Ray pointed out that the city has had no experience in this field; there will be complications, but there are complications now in the disposal of garden refuse at the airport.

MOTION

That the report of the Director of Public Works dated September 3 for the disposal of garden refuse by composting operation be accepted and the recommendations contained therein be approved and the staff be authorized to proceed in accordance therewith.

Moved by Merrill      Seconded by Hammond      Unanimously carried

REPORT ON UNFREEZING OF RESERVE FUNDS FOR URBAN RENEWAL PROJECTS 6-20

Mr. Masonheimer briefed the report received from the United States Conference of Mayors advising that President Eisenhower made \$100 million available for urban renewal capital grants. An attached copy of the statement by the President was also briefed.

REPORT ON RECEIPT OF FEDERAL PARTICIPATING FUNDS FOR CIVIL DEFENSE RADIO EQUIPMENT 6-40

Mr. Masonheimer reported receipt of the notice of allocation of federal participating funds for the purchase of radio equipment made last year, in the amount of \$4,582.70.

FURTHER DISCUSSION ON CLEANING UP OF VACANT LOTS 6-47

With the unanimous consent of the Council, Councilman Arata was permitted to raise a matter not on the agenda---the cleaning of vacant lots. He asked for the City Attorney to clarify the legal status of the city in requiring property owners to clear their property of weeds and on the sidewalk area from the property line to the curb.

The City Attorney reported that the Municipal Code provided the procedure for the city to notify the owner by posting of notices to remove the weeds and if they are not removed within the time specified the Superintendent of Streets may cause the weeds to be removed and the cost of removal charged against the property owner.

Mr. Masonheimer reported that a report was being prepared on the subject at City Council request and that it would be presented shortly. The staff will follow any direction from the Council on the matter. At present the lots have only been cleaned once a year but if it is the Council's desire that they be cleaned for a second time and the property owners charged, it will be done accordingly. If this new policy is adopted, there will be several operational and personnel problems to be resolved. The ground is so hard now that a disc would be useless but it could be mowed or scraped. The property owners, in this instance, will be paying a second assessment for lot clearing.

Councilman Arata stated that the lots are cleaned early in the spring and late rains cause the weeds to grow again. Sunflowers do not start growing until summer, and it is possible that even a third clearing operation might be required.

After the report is submitted, Mr. Masonheimer stated, the staff will ask for Council guidance and act accordingly.

The City Attorney stated that he would have an opinion later on whether the same removal procedure would apply to the removal of weeds from the sidewalk to curb area as to vacant lots.

9-3-58 Page 6

PROGRESS REPORT ON ANALYSIS OF THE SALES TAX STUDY 6-87

With the unanimous consent of the Council, Mayor Marks raised this matter not on the agenda. Copies of the analysis of welfare payments to residents of the cities and the unincorporated area were distributed to the members for their study. Mayor Marks directed that the sales tax matter be placed on the agenda for the next Council meeting.

Mr. Masonheimer reported that the material in the report has been sent to Mr. Sam Wood of the Pacific Planning and Research and it is hoped that the answers to several questions raised by the City Manager will be forthcoming in time to consider along with the report at the next meeting.

Councilman Hammond recommended that a progress report on the overall fiscal relationships study be made at the next meeting so that the citizens can be assured that this study will be completed within the allotted six months period.

B.E. EDUCATION DAY MEETING 6-109

With the unanimous consent of the Council to bring up an item not on the agenda, Mayor Marks reminded the Council members that Business-Education Day would be observed on Thursday, September 11, 1958. Copies of the City program to be presented to 18 teacher-guests, were distributed.

CLEAR REQUEST FOR VACATION FOR ASSISTANT CITY MANAGER 6-125

Mr. Masonheimer asked for permission to be absent on vacation on Friday, September 5, at the same time the City Manager was absent from the City.

Councilman Merrill objected to the request on the basis that his re-employment with the city had not been for a full year and that both the City Manager and his Assistant should not be absent from the city at the same time.

Mr. Masonheimer pointed out that the personnel rules govern vacation benefits. Vacations can be taken during the first year provided that the City will be reimbursed should termination occur during the year. It is often convenient for the City to so schedule vacation.

Councilmen Robinson and Arata concurred in Councilman Merrill's objections to having both the City Manager and his Assistant on vacation at the same time.

Councilman Robinson suggested that a Council policy might be established on this matter.

Mr. Masonheimer stated that if it was the Council's wishes that both not be absent that other arrangements would be made, and pending the return of the City Manager he will be on the job.

ADJOURNMENT

## MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

ATTEST:   
REX E. GAILFUS, CITY CLERK

9-3-58      Page 7

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Mayor Marks

Absent: Councilmen: Hammond, Robinson, Spaulding

The pledge of allegiance to the flag was given by all those present.

Rev. Magnus Anderson gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of August 20, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER AND BULLETIN FROM LEAGUE OF CALIFORNIA CITIES RE: CITY'S REQUEST FOR LEGISLATION PROVIDING FOR ALLOCATION OF FEDERAL-AID URBAN MONEY TO CITIES 1-26

City Manager Miller noted that copies of the bulletin had been made available to the Council members. He reported that the Highway Committee of the League of California Cities would consider this matter at its meeting to be held next week. No action was required by the Council, he stated, as its position had already been made clear.

#### BULLETIN FROM LEAGUE OF CALIFORNIA CITIES RE: HEARING ON VETERANS TAX EXEMPTION 1-32

The Subcommittee on Veterans Tax Exemption is to hold a hearing in Sacramento on Sept. 15 and 16 at 10 a.m. No action was taken by the Council.

#### LETTER FROM MODESTO GOLF CLUB RE: CONDITION OF GOLF COURSE 1-41

The letter from Harry Rix, President of the Modesto Golf Club was read. The Club complained of the condition of the greens and asked that the Council or a Council committee be appointed to inspect the course. The original grass seeded on the greens is being choked out and dying from the noxious grasses and more concentrated attention should be given the problem. The Club claimed there must be a solution because other similar courses were facing the same problems and seemed to combat them with success.

Copies of a report prepared by Director of Parks and Recreation Lowrey were distributed to the Council members. Councilman Merrill recommended that the report be studied, the course inspected by the Council members, and a decision be made at a later Council meeting.

Mayor Marks recommended that the whole subject be resolved at that time---whether the city should have a new 18 hole course and retain its present 9 hole course.

Councilman Arata stated that as long as the 9 hole course was in operation it should be maintained in proper condition. Schools are becoming interested in golfing and arrangements for giving courses should be considered. The 9 hole course is located where it could be used for this purpose and reduce juvenile delinquency.

Councilman Merrill considered that the city needed both courses at the present time and the 9 hole course should be maintained up to standard. An additional 18 hole course would be needed in the near future, he stated.

Mayor Marks contended that the community would be able to support two courses later when the population had increased but one should be located in the eastern area. If the City is to keep the 9 hole course it should be put into perfect condition. The staff should know the decision of the Council on whether it is to be retained as a golf course or a park, so it can be improved and maintained accordingly.

The City Manager stated that the staff needed to know whether the course is to be continued and if so, some of the greens should be replaced. It would not be wise to spend money rebuilding greens this winter which will not be needed next winter, he pointed out. There has never been any decision by the Council that this course would be continued. Reports and discussions when the new course was being proposed were on the basis that it would be the only course. If the Council wishes to indicate that the 9 hole course will be continued, a different program would be presented to the Council for improvement and maintenance, and also a different program for the 18 hole course. The staff needs to know the Council's decision. The condition of some of the greens is bad. One of the reasons is that the weed problem has been more severe this year because of the late rains. Golf courses up and down the valley are going to pieces. He asked that the staff be notified of any course in the valley where this condition has been "licked" so that the staff can make an inspection.

Mr. Lowrey pointed out that he knows of no other course having the total number of rounds played on it as this course. It is definitely overplayed. There has never been any lag in the maintenance of the course during the past years, regardless of the future of the course. Contacts have been made with the best turf managers and they have confirmed the methods being used for irradiation of the various weeds, the only real answer is that some temporary greens be established and remove the golfers from the permanent greens. Rebuilding the greens will help but it will not solve the problem as long as there are 70,000 plus rounds on the course. The course will pick up very shortly at the coming of cooler weather.

The City Manager commended Mr. Rix on his cooperation with the staff and reported that efforts are being made for closer contact with the Club.

Mr. Don Lapan pointed out that the fees paid by the players helped pay the operation cost of the course.

The City Manager reviewed the action previously taken by the Council relating to the possible completion of the 18 hole course by next October--- the staff was authorized to prepare the necessary documents to sell one-half of its 15th Street lot to the Library for a future site, as recommended by the Planning Commission and Library Board, and negotiate with the property owner of the property adjacent to the present building for the purchase of this property to protect this site. The funds realized by the city (\$70,000) from the sale of the 15th Street property could, if the Council wished, be utilized in the completion of the 18 hole golf course ahead of the schedule previously presented to the Council.

The advantages and disadvantages of this procedure were briefly discussed by the Council members. The City Manager pointed out that it was possible to make both purchases due to the fact the County failed to include in its budget funds for the establishment of a branch library as was done by the City. Councilman Arata opposed the program proposed and recommended that funds be made available out of the reserves for the completion of the course.

Mayor Marks recommended that the whole program be considered next week so that the staff and golfers of the community would know "where they stand and where they are going".

## MOTION

That the entire program for the completion of the 18 hole golf course and maintenance and operation of the 9 hole course be considered by the Council at 5:30 P.M. September 17.

Moved by Merrill      Seconded by Adams      Unanimously carried

"PROPOSAL FOR PROGRESS" REPORT PRESENTED BY JOHN QUARESMA 3-120

Copies of a map and the report were distributed by Mr. Quaresma. He then read the report in full and asked that the Council consider his proposal before making its decision. He proposed to dedicate to the City and improve the area proposed for the widening of Tully Avenue, Roseburg Avenue and extension of Notre Dame at a cost to him of approximately \$50,000 if the city would agree to extend the present C-1 zoning at Roseburg and Tully to include the land now zoned R-3 and R-1 bordered on the west by Tully Road, south by the north alley of the now existing Quaresma Tract No. 1, east by the proposed boundary line of the extension of Notre Dame and north by Roseburg Avenue.

He stated that whether the proposal was accepted or not he proposed to develop the C-1 property by erecting a milk depot. It would extend into the property on Tully Avenue which the city proposes to use for the widening of this street. If the city decides not to accept his proposal, he pointed out, there were three alternatives available:

- 1- The city may purchase the property at the figures stated in the report;
- 2- Condemn the property;
- 3- Issue a building permit for the erection of the milk depot which would not be good for the orderly growth of the community nor conform to good planning within the community. If the street is widened later the City would be compelled to pay severance costs for moving the building.

He proposed a method to be used in preparing the city's annual progress report which would include a statement relating to the City's cooperation with developers to build improvements for the community good.

The City Attorney pointed out that this matter came within the jurisdiction of the Planning Commission and legally the Council could not accept Mr. Quaresma's proposal----dedication of improvements in exchange for change in zoning. He pointed out the alternatives available to the Council, 1) send the report to the Commission with a resolution of intention or 2) refer it to the Commission and permit the Commission to consider the facts and take such action as it deems appropriate.

## MOTION

That the report be referred to the Commission for study.

Moved by Mayor Marks      Seconded by Adams      Unanimously carried

Planning Director Smeath stated that the matter would be placed on the agenda for the next Commission meeting being held September 23 and considered at that time. However unless Mr. Quaresma files a formal application for a zoning change it is possible that the Commission will consider that the facts have not changed since it denied the first application for a zone change and take no action. The Commission would have to decide whether it would initiate a zoning change itself or take further time to study the report.

AWARD BID FOR IMPROVEMENT DISTRICT NO. 7 TO ALLIED CONCRETE & SUPPLY COMPANY 7-20

Tabulation of the three bids received for the construction of curb and gutter in Improvement District No. 7 were considered by the Council. The Director of Public Works recommended that the low bid of \$19,088.60 received from Allied Concrete & Supply Company be accepted.

RESOLUTION NO. 924 S.P.

A RESOLUTION OF AWARD OF CONTRACT

Introduced by Arata           Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Mayor Marks  
Noes: None                   Absent: Hammond, Robinson, Spaulding

ACCEPT BID OF M. J. RUDDY FOR IMPROVEMENT OF ROSEBURG AND RAILROAD CROSSINGS AT ORANGEBURG AND BRIGGSMORE AVENUE 7-30

Tabulation of the bids received were distributed for Council information. The Director of Public Works recommended that the low bid of \$12,160.40 submitted by M. J. Ruddy & Son be accepted.

RESOLUTION NO. 58-299

A RESOLUTION ACCEPTING THE BID OF \$12,160.40 FROM M. J. RUDDY & SON FOR UNIT A: ROSEBURG IMPROVEMENT FROM MILLS AVENUE TO VIRGINIA AVENUE; UNIT B: ORANGEBURG CROSSING OF THE TIDEWATER RAILROAD AND UNIT C: BRIGGSMORE CROSSING OF THE TIDEWATER RAILROAD

Introduced by Adams       Seconded by Arata  
Ayes: Adams, Arata, Merrill, Mayor Marks  
Noes: None                 Absent: Hammond, Robinson, Spaulding

APPROVE SPECIFICATIONS AND CALL FOR BIDS FOR GRADING OF NEW GOLF COURSE 7-46

RESOLUTION NO. 58-300

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR THE FURNISHING OF RENTAL OF EARTH MOVING EQUIPMENT FOR CONSTRUCTION WORK ON THE DRYDEN PARK MUNICIPAL GOLF COURSE

Introduced by Arata       Seconded by Adams  
Ayes: Adams, Arata, Merrill, Mayor Marks  
Noes: None                 Absent: Hammond, Robinson, Spaulding

The time set for the opening of the bids was 2:00 P.M. September 29.

REPORT ON PROGRESS MADE IN SALES TAX STUDY 7-67

The City Manager reported on the reply received from Pacific Planning and Research answering questions raised by him relating to the company's study of the fiscal relationships of public agencies in Stanislaus County.

Since these answers are tied into the report directly, it is difficult to determine, without an explanatory sheet. This has been prepared and will be sent out to the Council members and other interested parties for their study.

He stated that the change in the welfare item, based on the precise count of all cities except Newman made a difference in the result of \$455,248, and that the change in the road fund was a very substantial item. A full picture of the fiscal relationships of the governmental agencies in Stanislaus County would be incomplete without a consideration of the irrigation districts, the letter stated.

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The City Manager reported that the cities in the county which are in irrigation districts were working on the accumulation of amounts which are involved in their own areas. Cecil Plummer, Engineer for the Modesto Irrigation District has been asked to furnish the city with certain additional information which will clear the matter. With these facts there may be sufficient information to suffice and it is hoped that it will not be necessary to dig into all of the other elements of the study made by the Company.

REPORT ON CLEARING OF VACANT LOTS AND WEED CONTROL 7-97

The City Manager reported that the report requested by the Council on this matter was near completion and would be submitted shortly.

Director of Public Works Ray invited the members to be present on Friday afternoon at 1:30 P.M. to witness a demonstration of a machine on a vacant lot located at Burney and LaLoma which has been suggested for the handling of weeds during the summer season. The Clerk was directed to remind the members of the demonstration.

ACCEPT NEW RUNWAY AT CITY-COUNTY AIRPORT FROM CONTRACTOR W. H. DARROUGH & SON 7-110

RESOLUTION NO. 58-301

A RESOLUTION ACCEPTING THE CONSTRUCTION OF RUNWAY AND TAXIWAY FACILITIES AT THE MODESTO CITY-COUNTY AIRPORT FROM W. H. DARROUGH & SONS; AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Merrill      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Mayor Marks  
Noes: None                      Absent: Hammond, Robinson, Spaulding

HOLD OPENING AT AIRPORT DEDICATING NEW RUNWAY 8-15

The City Manager suggested the possibility of the city and county holding an opening at the airport to dedicate the new runway as it was a wonderful example of city-county cooperation.

MOTION

That the staff be authorized to confer with the county and work out a program.

Moved by Merrill      Seconded by Adams      Unanimously carried

REQUEST BY JIM FRAZIER FOR VARIANCE ON HEIGHT OF POLE SIGN 8-30

The request filed by Jim Frazier, operator of used car lot at 1324 10th St., for a variance from the Municipal Code provisions to allow a pole sign to extend 41 feet in the air which had been erected without a permit and which did not meet the 35' height limitation, was considered by the Council. He agreed to move the sign back from the sidewalk so that it would conform with the code provisions in this respect.

The City Manager reviewed the background of the case and pointed out that a temporary variance had been approved by the Council pending a study on variances and height limitation.

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Councilman Merrill introduced a motion which was seconded by Mayor Marks that the request be denied but the motion was withdrawn after further discussion.

The City Attorney pointed out that Section 9-6.26, subsection (b), subsection 5 of the Municipal Code provides that "no pole sign shall have its highest point extend more than thirty-five feet above the ground level; provided however, that the Council may authorize the erection of a pole sign in excess of said height limitation provided it finds that said sign shall not endanger the public health, safety or welfare".

Mr. Frazier pointed out that the sign was structurally sound and was not endangering the general public.

The City Manager reported that the sign had been inspected by a private engineer and as far as the structural safety was concerned there was no problem.

The City Attorney stated that although there was an established limitation of 35 feet, the regulations themselves recognize that the Council may authorize a pole in excess of that height if it does not endanger the public health, safety, etc. He pointed out that the regulation on pole signs was unique since at the time of preparation and discussion of the ordinance it was a new type of sign and there was less assurance on just what should be the proper height.

Mr. Frazier reported that this type of pole sign was new since its manufacture had been started less than a year ago.

Council discussion brought out the points

- 1.) any change in these regulations might start a trend toward changing regulations for other type signs;
- 2.) that this sign could be installed on a building and extend much farther into the air and might be more dangerous;
- 3.) that the Municipal Code regulations point out themselves that the question of height, etc. for pole signs would be subject to Council reconsideration in the light of experience.

After the general discussion the Council found that it would not jeopardize the public health, safety or welfare to permit the pole sign to be erected forty one feet as requested by the applicant.

RESOLUTION NO. 58-302

A RESOLUTION GRANTING REQUEST OF JIM FRAZIER TO PERMIT THE POLE SIGN ERECTED AT 1324 TENTH STREET TO REMAIN AT THE HEIGHT INSTALLED OF FORTY ONE FEET

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Mayor Marks  
 Noes: None                      Absent: Hammond, Robinson, Spaulding

FURTHER CONSIDERATION OF PROPOSAL FOR INTERIM HIGHWAY IMPROVEMENTS 9-46

The City Manager presented for Council approval a draft of a letter to be sent to the Division of Highways relative to proposal for interim highway improvements. It is hoped that this letter might help to clear out the grade separation problem, he pointed out, as he read the draft.

Mayor Marks and Councilman Arata expressed opposition to a suggestion in the letter that the H and I Street couplet might be designated as

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a location for the construction of a grade separation, on the basis that it would damage the central business district of the city.

Councilman Arata objected to the statement in the letter that the city would participate in the cost of the grade separation.

The City Manager stated that he was not inferring that the city would share the cost of the overpass but the Division had pointed out in the discussions that if the city could do certain kinds of things, that it might be doing on streets in any case, it might help in getting some action on the program.

He pointed out the possibility of not including the names of any special streets in the letter, but stating that the location of the grade separation could be "at a point to be determined jointly". He also suggested that the letter be rewritten on a basis where it would be clear that the city cannot commit itself on the sharing of the costs for the grade separation but that it would be willing to consider "chipping in" on some of the improvements if they were particularly helpful to the city, and the city was willing to work with the state in this determination.

The City Manager was directed to rewrite the letter along the lines discussed, send copies to the Council members along with a copy of the report relating to these matters and place it on the agenda for action at a later meeting.

#### REPORT ON NEED FOR ASSISTANCE ON STUDY OF UTILIZATION OF MANPOWER 10-49

The City Manager suggested that it would be wise for the city to secure the services of some outside firm to make the study of utilization of manpower for two reasons, 1) it is uncertain when the city staff could schedule the study and 2) it would be helpful to have an impersonal, independent look at this problem.

He suggested that the firm of Louis Kroeger & Associates be secured to assist in the study. Most of the work would be done by city personnel but this firm would assist in working out the recommendations. He estimated the cost to be \$1,200 to \$1,500.

#### MOTION

That the firm of Louis Kroeger & Associates be hired to assist in the study of utilization of manpower, at a cost not to exceed \$1,500.

Moved by Arata      Seconded by Merrill      Unanimously carried

#### FURTHER REPORT ON POSSIBLE ULTIMATE CONNECTION OF TUOLUMNE BOULEVARD AND MORTON BOULEVARD 10-85

The City Manager reported receipt of information from the State Division of Highways that it would agree to do the work on the possible ultimate connection of Tuolumne Boulevard and Morton Boulevard which is directly related to the design of the freeway structure and bypass but that it would be necessary for the city to do some checking on the grades, and work on the planning, etc. to be certain that it would be possible, if desirable at a future time, to carry the traffic on east to Morton, by passing the railroad tracks and the present 99 highway. He stated that if there was no objections, the staff would proceed to check out the matter and submit a further report. No objections were offered by the Council that the staff proceed in this manner.

Director of Traffic and Parking Carmody answered questions raised by property owners residing on Morton Boulevard----that the proposal did not include carrying the connection of Tuolumne Boulevard and Morton Boulevard north of Grand Street (Yosemite Boulevard). The northern terminus of the project would be the proposed Jennie Street bridge which was approved by the Council and the Stanislaus County Advisory Committee.

RESOLUTION DIRECTING COLLECTION OF UNPAID ASSESSMENTS UNDER \$50 FOR IMPROVEMENT DISTRICT NO. 6 BY STANISLAUS COUNTY 11-10

RESOLUTION NO. 58-303

A RESOLUTION DIRECTING COLLECTION OF ASSESSMENTS UPON TAX ROLLS FOR IMPROVEMENT DISTRICT NO. 6

Introduced by Merrill      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Mayor Marks  
Noes: None                      Absent: Hammond, Robinson, Spaulding

REPORT ON COST FOR NOTICES ON CITIZENS' SEMINAR 11-20

With the unanimous consent of the Council, Mayor Marks was permitted to report on a matter not on the agenda. He recommended that notices of the proposed citizens' seminar be printed and distributed to the large business organization, Service Clubs and for posting on bulletin boards, and to be placed in the papers and over the radio.

October 14 or 16 was suggested as the date for the seminar but no firm commitment was made so that the staff could check out the possibility of other special events which might be scheduled for this time.

MOTION

That the distribution and advertising of the notice of the seminar, as reported by Mayor Marks, be approved.

Moved by Merrill      Seconded by Adams      Unanimously carried

ANNUAL FINANCIAL STATEMENT FILED 11-46

The City Manager distributed copies of the 1957-58 annual financial statement to the Council members.

FINAL BUDGET COPIES DISTRIBUTED TO COUNCIL MEMBERS 11-46

Copies of the final budget, as approved by the Council, for fiscal year 1958-59 were distributed to the Council members.

FILING OF ANNUAL REPORT SUBMITTED TO STATE LIBRARY BY McHENRY PUBLIC LIBRARY 11-55

A copy of the report was filed.

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Merrill      Unanimously carried

The meeting was adjourned at 10:07 P.M.

ATTEST

  
CITY CLERK

Modesto City Council  
September 17, 1958

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Merrill, Robinson, Spaulding and Mayor Marks

Absent: Councilmen: Arata and Hammond

Councilman Arata arrived at 4:03 P.M. and Councilman Hammond at 4:04 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Chas. W. Foley gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of August 11 and 27, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM SALVATION ARMY REQUESTING ADJUSTMENT OF CONTRACT APPROPRIATING FUNDS FOR PROGRAM 1-12

A letter from Kenneth L. Hodder, Commanding Officer of the local Salvation Army, was read, requesting that the city's contract allocating \$300 to the Army to be used in support of the transient and family services, be amended to increase the allocation to \$5,000.

Commanding Officer Hodder and Marion H. Moorehead, Chairman of the Salvation Army Advisory Board, spoke in support of the request.

#### MOTION

That the request be referred to the staff for report and recommendation.

Moved by Arata      Seconded by Merrill Unanimously carried

#### LETTER FROM GREATER MODESTO CHAMBER OF COMMERCE REQUESTING PAYMENT OF ALLOCATION 1-105

A letter received from the Greater Modesto Chamber of Commerce requesting payment of the allocation of \$11,000 for the fiscal year, 1958-59, budgeted in the city budget, was read.

#### MOTION

That payment of \$11,000 budgeted for the fiscal year 1958-59 for the Greater Modesto Chamber of Commerce be approved.

Moved by Arata      Seconded by Hammond      Unanimously carried

#### LETTER FROM ATTORNEY JOHN M. TRIMBUR REPRESENTING KIDDIE RIDES, INC. REQUESTING THE COUNCIL CONSIDER AMENDING THE BUSINESS LICENSE REGULATIONS 1-116

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A letter was read from Attorney John M. Trimbur, representing Kiddie Rides, Inc., which installs and maintains children's rocking horse type rides at local stores, asking that the Council set a time for him to present his clients' views that the Municipal Code should be amended to delete these devices from the classification of "amusement devices".

MOTION

That the request be referred to the staff and the matter be placed on the agenda for next week and Mr. Trimbur be notified of this action by the City Clerk.

Moved by Merrill    Seconded by Adams    Unanimously carried

LETTER FROM CALIFORNIA ROADSIDE COUNCIL 2-1

City Manager Miller briefed the letter which notified that the Senate Sub-committee would hold hearings on the problem of billboard control and asked that the Council participate in the hearings. Since this matter has been up for some consideration by the Planning Commission, he suggested that it be referred to it for attention and report, if necessary.

MOTION

That the matter be referred to the Planning Commission.

Moved by Mayor Marks    Seconded by Adams    Unanimously carried

REQUEST OF CENTRAL CALIFORNIA SUNDAY SCHOOL FAIR THAT MAYOR MARKS ISSUE PROCLAMATION 2-06

A letter from E. S. Christoffersen, Publicity Chairman for the Sunday School Fair of Central California was read, requesting that Mayor Marks issue a proclamation declaring the week of September 24-27, as Sunday School Fair Week and urging attendance at the fair.

MOTION

That Mayor Marks be authorized to issue the proclamation.

Moved by Merrill    Seconded by Robinson    Unanimously carried

LETTER FROM STANISLAUS COUNTY PLANNING COMMISSION RE: LEGISLATION TO PROTECT PLANNED RIGHTS OF WAY 2-15

A letter from Stanislaus County Planning Commission was read soliciting the aid of the city in obtaining legislation which would give cities and counties adequate authority for the protection of planned rights of way from costly permanent construction. The Commission advised that it appeared under Sections 740 to 742, incl., of the Streets and Highways Code, the State Department of Public Works had been given adequate authority but that it had not been given to cities and counties. The Board of Supervisors feel that this provisions should be amended to expressly include cities and counties. The Commission requested that the city give this matter study and offer its suggestions.

MOTION

That the Council approve this in principle; that the matter be referred to the staff to bring it to the attention of the Modesto City Planning Commission and that the staff be authorized to work with representatives of the County and League of California Cities.

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Moved by Spaulding      Seconded by Robinson      Unanimously carried

LETTER FROM NEBRASKA EDITOR REGARDING CONDITION OF CITY PARKS 2-41

The City Manager reported on the reply which had been received by Assistant City Manager Masonheimer from his letter to the Editor of a North Platte, Nebraska <sup>newspaper</sup> who had written a report in his paper on the condition of one of Modesto's parks.

MAYOR MARKS COMMENDS JOE SEQUEIRA, OPERATOR OF JOE'S TAXI ON RECEIPT OF SAFETY AWARD 2-62

Mayor Marks commended Joe Sequeira, operating Joe's Taxicab, on the safety award which he had received from National Association of Taxicabs. Second place in the nation-wide Accident Prevention Program for 1957-58, was awarded to Mr. Sequeira. During the 12 months period he drove an average number of miles per accident of 114,418 miles. Modesto is one of the few smaller cities which is in this honor class.

REPORT ON PUBLICATION OF MAYOR MARKS' STATEMENT TO PRESIDENT'S COMMITTEE ON TRAFFIC SAFETY IN WESTERN CITY MAGAZINE 2-80

The City Manager noted that one of the lead articles in the August issue of the Western City Magazine was a discussion and review of Mayor Marks' statement to the President's Committee on Traffic Safety. A letter received from the Association of Casualty & Surety Companies commended this statement and the way it was presented.

Mayor Marks reported that he had received many letters in response to this statement.

ACCEPT BID FOR SUB-TRUNK SEWER IN COFFEE ROAD TO ZLAB NO. 2 SUBDIVISION 2-89

Director of Public Works Ray reported that the low offer of \$3,743 for the construction of sub-trunk sewer in Coffee Road to serve Zlab No. 2 Subdivision, submitted by George Reed, exceeded the Engineer's estimate by \$1,470. However he recommended that it be awarded to Mr. Reed because, 1) the Engineer's estimate was too low as estimated by comparison of the two low bids submitted; 2) the project was so small that it was not an economic unit for bid purposes; and 3) the small size of the project did not leave any margin if difficulties, due to sandy conditions, are encountered.

RESOLUTION NO. 58-304

A RESOLUTION ACCEPTING THE BID OF \$3,743 FROM GEORGE REED FOR INSTALLATION OF SUB-TRUNK SEWER IN COFFEE ROAD TO ZLAB NO. 2 SUBDIVISION

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None      Absent: None

CONSIDER AWARD OF BID FOR CONSTRUCTION OF NEW CITY HALL 2-115

Copies of the tabulation of bids received for the construction of the city hall were distributed to the Council members by the city's architect, Milton Pflueger. A copy is on file with the records of this meeting.

Mayor Marks commended the Director of Public Works and his staff on their work on this project during the past year.

Mr. Pflueger reported that

- 10 bids had been received for general construction,
- 2 bids on the combined construction,
- 5 bids for plumbing work,
- 7 bids for mechanical work
- 5 bids on the combined plumbing and mechanical work
- 4 bids on the electrical work

The low bidders in the various categories were as follows:

RON FISKE CONSTRUCTION COMPANY.

General construction-----	\$850,000.
Alternate 1(a) construction of enclosure around cooling tower	2,000
Alternate 1(b) metal solar screen in lieu of terra cotta screen(increased cost eliminate construction prices varied in all bids from \$35,000 to \$13,000)	
Alternate x later construction of garage due to exist- ing lease with county	5,000

Mr. Pflueger stated that the unit prices of the low bidder were in conformity and in most instances lower than the other bidders but that these prices would have no significance in awarding of contract.

CARVER CONSTRUCTION COMPANY

Combined construction-----\$1,146,800

PETERSON PLUMBING COMPANY

Part 2- plumbing work----- \$ 45,980  
Alternate x----- none

HANSEN'S INC.

Part 3- mechanical work----- \$127,000  
Alternate 3A-installation of water well---\$19,600  
Alternate 3B-installation of second  
difusing well, etc 5,100  
Alternate 3C-installation of cooling tower in  
lieu of wells 10,700  
Alternate x completion of garage at later date none

(unit prices apply only in the event the well system  
would have been accepted)

BAKER-NEWMAN INC

Combined part 2 and part 3, plumbing and mechanical \$173,927  
Alternate 3C 10,689  
Alternate x none

MODESTO INDUSTRIAL ELECTRICAL COMPANY

Part 4 - electrical work \$79,119  
Alternate 4B- installation of wires and controls  
of the cooling tower 740  
Alternate x 350

Mr. Pflueger reported that the total of the segregated bids was \$44,161 less than the low combined bid. If segregated bids are accepted there will be an additional architect fee of 3% on the segregated items alone, amounting to approximately \$7900 which would result in a net saving to the city of approximately \$36,250.

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Mr. Pflueger stated that the total of the low bids without taking into consideration the combined bid for parts 2 and 3 (plumbing and mechanical) and taking into consideration all of the additive alternates having to do with the cooling tower installation, would be \$1,115,539. This does not include alternate X which has to do with the later construction of the garage. The total for the later construction of the garage, including the contractors who require additional funds, would be \$5,350.

Councilman Arata considered that the Board of Supervisors should be contacted before the award was made.

The City Manager reported County Administrator Hane had already been contacted, and asked to place this matter on the agenda for the Board meeting to be held next Monday.

Mr. Pflueger pointed out that there was a difference of 11% between the total bid cost of \$1,115,539 and the estimated cost of \$1,003,800 given by him to the Council during the month of February, 1958. He pointed out that the contract provided if the low bid totaled in excess of 15% over the approved estimate by the Council, it is the function of the architect to make changes to the drawings as necessary to bring the total cost down within 15% of the estimate. The estimate was as close as could be made under conditions existing at that time. During this interim period lumber prices have increased 15%; labor costs 8%; steel 6% to 7%; concrete 12%. Breaking all of these down, Mr. Pflueger stated the overall cost index rise from February to this date is between 7% and 8%. He listed various minor changes which had been made in the preliminary plans by the Council which would account for the additional 3% difference.

Mr. Pflueger considered that the bids received were good bids, from reputable bidders. He reported that all bidders had been checked out by the city staff and determined to be satisfactory.

Councilman Arata asked Mr. Pflueger to give the Council at a later date a rough estimate of the cost for the items which had been added to the preliminary plans after his original estimate of the cost, so that this information could be placed on record.

Mr. Pflueger answered a question raised by Councilman Arata -- whether segregated bids would require additional inspection. It would require more administrative work on the part of the city and the architect, but as far as inspection was concerned he questioned whether it would mean hiring an additional man. Whether one man or two men were doing the inspection, if the man was capable of watching all classes of work it could be done. The coordination of the work under a segregated bid contract is definitely more involved. Instead of one contractor there could be four prime contractors, each thinking his work is the most important.

Mr. Ray pointed out that plans are for one inspector but there might be times in processing and scheduling of the work when two men will be needed for some particular period. The staff feels that there must be adequate inspection because it is the "cheapest insurance we can have". These conditions would hold true even if the bid was awarded to one prime contractor, he stated.

The City Manager stated that the staff wished to be certain that it was carrying out the Council wishes on the matter of inspection. The contract requires that the city furnish a Clerk of the Works and Inspector, other than general inspection furnished by the architect. It is impossible to say that one inspector will do the work.

Councilman Arata stated he wished to have it cleared at this time

whether segregated bids would increase the inspection costs, so that there would be no effort to hire additional inspectors later.

Mr. Ray stated that if it was necessary to ask the Council for additional inspectors there would be good justification for the request. Any increases in cost for inspection would be nominal, he stated.

PROTEST FILED ON AWARD ON SEGREGATED BIDS 6-15

Attorney F.W. Halley, representing Baker & Newman, low bidder on the combined plumbing and mechanical work, appeared before the Council. He registered a protest to the awarding of the bid to the lowest bidders for the plumbing and mechanical work on the grounds that these low bids did not include a list of the subcontractors as called for in the specifications. He cited sections from the specifications which supported his client's protest. These instructions provide "that any proposal which does not include a complete list will not be considered" he stated, and it is submitted that the Council, if it is going to comply with these specifications, should not consider the two low bids in parts 2 and 3.

Mr. George Hanson, low bidder on Part 3, mechanical work, stated that the bid sheet furnished him did not include a section for the listing of sub-bidders. He pointed out that the low bidder on the general construction did not include the sub-contractor for reinforcing steel. If the Council considers these technicalities in awarding the bids, the best thing to do would be to throw out all of the bids and call for new ones. He contended that under the general contract a page had been included in the bid proposals for listing sub-contractors but not for the segregated bids, and it was taken for granted that it would not be necessary to list them.

Mr. Hansen stated that this same situation arose when bids were called for the construction of a school building in the Turlock area and that the bidders were permitted to furnish their list of subcontractors later after the bids had been opened.

The City Attorney stated that the Director of Public Works had called his attention to the fact that the bids submitted for the city hall under part 2 for plumbing work and part 3 for mechanical work, had not specified any sub-contractors. An examination of the contract documents indicate:

1. That the Instruction to Bidders contain a provision that each proposal shall include a complete list of sub-contractors proposed for each proportion of the work and certain material suppliers in the formal proposal and any proposal which does not include this list will not be considered;
2. That Article 33 of the General Conditions, page A-12, refers to sub-contracts and in more detail, requires that each bidder set forth name and location of the place or place of business of each sub-contractor who will perform work or labor or render services to the general contractor in an amount in excess of one-half of one per cent of the general contractor's total bid and the portion of the work which will be done by each such contractor if the contract for said work is awarded to the bidder. If the bidder fails to specify the sub-contractor for any portion of the work to be performed over this specified amount then the bidder agrees to perform that portion himself;
3. That the Government Code sections referred to in the contract documents also provide that if the bidder fails to specify the sub-contractor for any portion of the work to be performed over this specified amount then the bidder agrees to perform that portion himself.

The City Attorney stated that the mere absence of the listing of the sub-contractors was of no importance if the bidder does all the work himself. He reported that he had checked with various State departments, League of California Cities and the County of Stanislaus and the unanimous opinion of these sources was that the provision of the Government Code referred to in the specifications required that all bidders should specify their sub-contractors where he was not doing all the work himself.

He stated that it could be argued one way or both ways that in the mechanical part, because a Johnson Pneumatic Temperature Control System was specified, the sub-contractor cannot be any other than the Johnson Service Company, and therefore the failure to name a sub-contractor for this work may be a technical violation, but that it serves no valid purpose to protect the public or the city because the specifications require that it be from the Johnson Service Company. However, that argument does not prevail with respect to the plumbing work and the installation of the sprinkler system. The unfortunate thing about it is that that being the case, it doesn't make any difference with respect to the mechanical system because in order for the Council to award a contract on the three segregated bids, it would have to have a valid bid for plumbing, mechanical and electrical work. Thus he stated all of the bids for part 2 plumbing work and part 3 mechanical work do not comply with the specifications, as none of them list the subcontractors.

He stated that it was his understanding that all of the electrical work was to be done by the person who submitted the lowest bid and there was no problem there.

He pointed out that the specifications provide that the city reserve the right to waive any informalities in the bid, but it is questionable whether this could be classified as an informality. The unfortunate thing is that when the city awards on a segregated bid basis to one of the specialty contractors he becomes a prime contractor and he falls within the provision of the Government Code section in which he must designate his sub-contractors.

He stated the only way to really know the answer to this question would be for somebody to litigate it and let the court decide. He stated that he was giving his opinion based on study and conference with other persons that had had similar experience. He pointed out for the benefit of the contractors involved that there was a section of the state law that provides that any general contractor violating any provision of this chapter violates his contract and the awarding authority may cancel the contract, and after such violation the general contractor shall be penalized to the extent of 20% of the amount of the sub-contract involved, and that funds recovered through the application of this penalty shall be paid to the State Treasury who will deposit them in the general fund.

He pointed out that the opinion rendered was his own and might be wrong but as the Council's legal advisor, since the penalty involved public moneys, he had no other recourse.

#### MOTION

That this matter be continued over until September 24, in order to check out the extra costs involved for delay in construction of the garage with the Board of Supervisors and for the submission of a written report by the City Attorney to clarify the legal requirement of the specifications for the submission of sub-contractors by bidders.

Moved by Hammond      Seconded by Arata      Unanimously carried

MOTION

That the further consideration of this matter be scheduled for 8:30 P.M., September 24, 1958.

Moved by Arata      Seconded by Robinson      Unanimously carried

REPORT BY CITY MANAGER ON FINANCING OF CITY HALL 9-20

The City Manager stated that the amount budgeted for the city hall and parking garage was \$1,026,000 plus, and the estimated remaining cost at this time, after consideration of the bids received, would be about \$1,200,000, plus inspection and furnishings. This would mean that approximately \$200,000 more must be made available in order to finance the construction of the project.

Councilman Arata pointed out that it would not be necessary to provide funds for the purchase of the furnishings at this time.

The City Manager stated a further report would be sent to the Council.

INFORMAL HEARING ON GOLF COURSE MATTERS 9-30

For the information of the audience, Mayor Marks presented the prior discussions held by the Council on the use for recreational purposes of the site of the existing 9 hole golf course, as summarized in the City Manager's report to the Council on February 11, 1958, (copy on file with the records of this meeting), in order to clear the basis upon which the gift of land of Mr. and Mrs. Horace Dryden was accepted and the new course was justified to the taxpayers.

Mayor Marks also reviewed the discussion held at the last Council meeting for the information of the three members who had been absent and the action taken that further consideration be given to the basis of improvements of the 9 hole course. He stated that this matter had been raised by the receipt of a letter from the Modesto Golf Association protesting to the condition of the greens.

The City Manager reported that the report prepared by the Director of Parks and Recreation, as directed by the Council, indicated that if this course is to be continued on any long term basis as a golf course that at least 8 of the greens should be rebuilt within one and one-half years, at an estimated cost of \$25,000.

Councilman Arata moved, which was seconded by Councilman Merrill -- that the city repair the course to the best of its ability.

Discussion on the motion:

Councilman Arata contended that the city had already voted on a proposal to keep the course in playing condition only until after the 18 hole course was completed, and the final decision to be made at that time by the Council in office.

Councilman Hammond pointed out that when this was discussed a few months prior, the concensus of opinion was that the city keep the course on an interim maintenance basis and only those major capital improvements which could be used in either a regional park or golf course be approved. No decision should be made at this time on whether it is to be abandoned as a course, but minimum maintenance repairs only be made.

Councilman Spaulding proposed for the Council's consideration a four point program:

1. That the city proceed and finish the 18 hole golf course so that it would be playable by the fall of 1959;
2. In order to answer a lot of the questions about whether or not the course will pay its way when the 18 hole course is opened that the course remain in play for at least a year after the other course is opened;
3. That whatever funds the city has available for parks be used to develop the parks now owned by the city;
4. That the city undertake a long range study of the city's future recreational plans and consider the possibility of a bond issue or recreational improvement districts to give the city the parks and recreational facilities it needs.

Councilman Merrill recommended that the 9 hole course be retained for at least a year after the other course was opened to determine the economic feasibility of continuing its operation as a course. Times have changed and the city has grown since the first discussions were held on the future of the 9 hole course. The city needs two courses and if the course is closed the city will lose revenue. The School system should be encouraged to use this course for the youth in the vicinity. It would be costly to acquire another site for a course.

Mayor Marks stated that his purpose of reading the report had been that through the fabric of everything that had gone on, the city's integrity is bound by certain considerations; all the correspondence and discussion held, and the way he had justified the expenditure of \$300,000 to the 90% of the people who do not play golf in the area, was on the fact the 9 hole course would be a fine recreational area. One of the conditions of Mr. Dryden's gift had been that it would be used as a regional park. Although this was not in the deed, he stated, he considered it just as valid when it was spoken as when in writing. He stated that he not only represented 35,000 people but also the consciences of these people.

Councilman Arata contended that he represented these people more than Mayor Marks because the Mayor was only present in the city part of the time. "If you are going to be a Mayor you should live here".

Mayor Marks pointed out that he had missed very few Council meetings and spent many hours working for the city.

Councilman Hammond recommended that no decision be made at this time and expressed approval of Councilman Spaulding's recommendation.

Councilman Robinson considered that the city should continue to maintain the present course and review the situation at the time the new course is completed.

The City Manager pointed out that the staff had received no direction from the Council. There has been discussions by the Council but no specific action or direction as to what to do about the course. The staff has been trying to hold the line with the minimum amount of repairs, and would like to present a report to the Council listing alternative for consideration. If the course is to be continued for a long time, the approach would be different and more expensive. If the staff is reasonably sure that it will not be continued for a long period when the approach to maintaining the greens over an interim period would be quite different.

Attorney Elmer Winger, representing Mr. and Mrs. Horace Dryden, stated that it was their hope, desire and wish that 1) the new course be

finished with all expedition, and 2) that the old golf course be converted into a public park in accordance with the original understanding that they had before they made the gift and as expressed by them after the gift. It is their opinion that it is for the best interest and welfare of the people of the community that it be a park rather than continue as a golf course. They do not wish to be embroiled in any controversy over whether the course will be continued on for a year, and it will not be of too much interest to them if it is continued for this short term as long as the plan is adopted at this time or some time in the reasonably near future that it be used for the purpose that it was intended to be used by them when they made their original grant. The record is clear that it was their intention, as expressed by the Council minutes and letters, that it would be converted to a public park or playground and not continue to be used as a golf course.

Councilman Arata stated that there was nothing in the deed which indicated that the present course would be discontinued and it would be up to the Council in office at the time the new course was completed to make this decision.

Councilman Spaulding stated that the Council was cognizant of what the Dryden's wish was at that time and everyone in the community should appreciate what they have done but possibly the city should go beyond what they were talking about four years ago and undertake a program of developing parks for the city on a considerably larger basis. Mr. Dryden's primary interest was that the Council should provide some parks for the city. The Council cannot make a fair decision on this at this time.

Councilman Hammond stated that the Council in office at the <sup>time</sup> decision is made will take Mr. Dryden's wishes into consideration. The city cannot make a decision at this time because when the course is completed possibly a different Council will be in office.

Mayor Marks considered that this Council also had an obligation to the succeeding Councils to give them the benefit of its experience. This city will need another golf course in about 10 to 15 years but it will cost approximately \$25,000 annually to maintain the 9 hole course during this period.

Councilman Hammond pointed out that the Council was on record that adult recreational activities should be self-supporting.

Harry Rix representing the Modesto Golf Association stated that the members were not concerned with the ultimate disposition of the 9 hole course but were unhappy with the existing condition of the greens. The club was not suggesting that \$25,000 be spent in replacing the greens but that a progressive program be adopted so that when a green starts to go "sour it be kept up". If it was put in right the first time, there will be no further trouble for a great many years. The club does not want to do anything which would stop the completion of the 18 hole course, but it is entitled to better playing conditions than have existed at the course, and it can be accomplished without a great expenditure. The disposal of the 9 hole course should not be decided until the new course is completed. Conditions, such as highways, may change the whole outlook on the location of the course. He stated that those members of the club who are present at this meeting are all in favor of retaining the 9 hole course at the present time.

The City Manager asked that, as directed by the Council at its last meeting, Mr. Lowrey be permitted to present his report on the maintenance of the course.

This request was discussed generally by the Council and Councilman Arata agreed that he should be permitted to do so providing that it was not a biased report. The City Manager stated that the staff's reports

were not biased and asked as a personal favor that anytime Councilman Arata considered any report was biased that it be brought publicly to the attention of the Council.

Mr. Lowrey asked that the club raise the points at this time on which they took issue in his report on the maintenance of the course. He stated that he had personally investigated those courses, which had been named by Mr. Rix, where they were not supposed to be having weed trouble and had taken pictures of the courses which could be shown the Council if they so wished. He had talked to the greenskeepers at these courses and every course in this valley at one time or another this year has had similar troubles and in many cases much worse than Modesto has had.

He pointed out that there was nothing biased about this report, as matter as fact as he could make it.

Mayor Marks stated that he had been sitting on the Council for 7½ years and had not seen any biased reports. He asked if any other members on the Council had received any biased reports.

Mr. Lowrey stated that a statement had been made that he was opposed to golf. This is untrue he stated as he has been on record as being highly in favor of the 18 hole course ever since it was proposed. He also has been on record that the 9 hole course should become a park and statistics are available to show why it should be a park. He stated that he had made a report on what should be done to keep the course in condition.

This is what can be done on the present course, Mr. Lowrey stated, first alternative is to continue to do exactly as has been done, this has been maintaining up to the maximum capacity of which we are capable. The big problem on the greens is that crabgrass was killed. The gripes were there because crab grass has not been killed, and then when it was killed it left brown spots. The city does not have the manpower or time at this time to plug in these spots. This is the big problem on two and partially on a third green. The crew can continue to kill this crab grass with a chemical. As the weather cools off, the grass will fill in. It is costing approximately \$33,000 annually to maintain the course. As long as there are 70,000 rounds of play regardless of what anybody says there will be problems. The course is at least 10% or more below acceptable level. One additional man during the summer months to do these finer things around the green like pulling crab grass and helping to keep the greens in shape would help considerably.

Councilman Hammond considered that if the golfers wanted to pay for this additional maintenance they can do so by increased rates. This operation must be self-supporting, as the Council has agreed.

Mr. Lowrey stated that the second alternative was that the fairway be ignored and some of the areas under the trees revert to roughs and concentrate all of the manpower on the greens, and the fairways be mowed less than at present. This will give rise to objection too. The third alternative would be to do a minimum reconstruction job on some of these greens as was done on No. 8, which cost an estimated \$500 or \$600. If this was done on all of the greens and it was retained as a permanent course this would be false economy. There is \$500 in this year's budget to rebuild No. 5 or No. 7 green. He stated that the greens could be sterilized at a relatively low cost which would kill all the grass and noxious weeds and the existing turf be reseeded and produce a fairly satisfactory green. This would mean closing the green down completely for about two months, and it is not recommended, Mr. Lowrey stated.

He recommended the city should do as was done on No. 8 green on an interim basis.

Mrs. Ruby M. Taylor, 613 Tuolumne Boulevard spoke in opposition to closing the 9 hole golf course.

Mrs. George Thomas raised some questions on the cost of repairing No. 8 green which were cleared by the City Manager and Mr. Lowrey.

Councilman Arata withdrew his motion and Councilman Merrill his second at this time.

Provisions of a resolution of policy on the course agreed to by the members were as follows:

1. That the 18 hole course be completed by the fall of 1959;
2. That the determination on the future of the 9 hole course will be made at the expiration of one year following the completion of the 18 hole course;
3. That the present level of maintenance will continue, supplemented by the reconstruction of three greens at an estimated cost of \$1500 (\$500 already budgeted and \$1000 to be appropriated out of general reserve fund).

RESOLUTION NO. 58-307

A RESOLUTION OF POLICY ON COMPLETION OF DRYDEN PARK MUNICIPAL GOLF COURSE AND MAINTENANCE OF MODESTO MUNICIPAL GOLF COURSE

Introduced by Spaulding                      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Hammond, Mayor Marks  
Noes: None                      Absent: None

RESOLUTION NO. 58-308

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$1,000 FROM THE GENERAL RESERVE FOR RECONSTRUCTION OF GREENS AT MUNICIPAL GOLF COURSE

Introduced by Arata                              Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

The City Manager pointed out that this action will mean the allocation of at least \$30,000 to \$40,000 additional in the capital outlay for the completion of the 18 hole golf course this year. A report will be made on this matter to the Council later.

He distributed copies of the following reports prepared by Director of Parks and Recreation, as directed by the Council:

"Report on estimated Costs of Complete Construction and Operation of the Dryden Park Municipal Golf Course and the Municipal Nine Hole Golf Course".

"Report on Estimated Cost of Reconstruction of Greens at the Nine Hole Municipal Golf Course".

MATTERS NOT ON AGENDA DISCUSSED BY UNANIMOUS APPROVAL OF COUNCIL      14-47

With the unanimous consent of the Council, Mayor Marks brought up a matter not on the agenda -- rumor that the City Manager had submitted his application for the position of City Manager of Fresno.

City Manager Miller declared that although he had been sent an application for this position, he had not filed for the job or expressed any interest of any kind to any responsible Fresno official.

Mayor Marks noted that it had been the established policy of the Council to have the City Manager submit all of his reports, unbiased reports, in this manner --- 1) this is the situation, 2) these are the facts, 3) these are the alternatives and 4) these are our recommendations.

The question has arisen on the fourth item. He asked whether the Council members continued to wish to receive the City Manager's recommendations, bearing in mind the Council is free to make its own decision.

He pointed out that the Council had operated by this precedent, and if there was any objection to this procedure that the members state their position.

Councilman Spaulding: "By all means the Council should have his recommendations as this was one of the biggest parts of his job."

Councilman Merrill: "How will the Council find out anything about the matters unless it has these recommendations."

Councilman Arata: He stated that he would not always go along with his recommendation, but he would still like to receive them.

#### REPORT ON HAPPENING AT THE MADDUX YOUTH CENTER 14-75

With the unanimous consent of the Council, Councilman Arata brought up a matter not on the agenda -- a request for a report on incidents of juvenile fights which had occurred at the Maddux Youth Center, as reported by the newspapers. Mr. Lowrey stated that a report was underway and would be presented shortly and that the incidents were not as unsavory as reported.

Councilman Merrill left the meeting at 7:25 p.m.

#### ORDINANCE AMENDING BUSINESS LICENSE REGULATIONS 14-90

The City Attorney briefly outlined the proposed amendment to three sections of the business license regulations. The Director of Finance stated that this amendment would take care of the request filed by Chris Boss, operating a vending machine business, that the fee be reduced for those persons residing outside the city and operating a minimum business in the city.

#### ORDINANCE NO. 259-C.S. entitled

"AN ORDINANCE AMENDING SECTIONS 6-1.201, 6-1.206, and 6-1.207 OF ARTICLE 2 OF CHAPTER I OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO THE LICENSING OF CERTAIN BUSINESSES, PROFESSIONS, TRADES AND OCCUPATIONS IN THE CITY OF MODESTO FOR THE PURPOSE OF REVENUE"

was adopted and ordered published in the official newspaper of the city as provided by the Charter.

Introduced by Hammond      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Merrill

#### ORDINANCE TERMINATING LEASE WITH CENTRAL CALIFORNIA ART LEAGUE 14-97

As directed by the Council the City Attorney presented an ordinance for consideration providing for the termination of the lease agreement with the Central California Art League Inc. for the rental of a room in the Modesto Community Service Center.

#### ORDINANCE NO. 260-C.S.

"AN ORDINANCE TERMINATING A LEASE AGREEMENT WITH THE CENTRAL CALIFORNIA ART LEAGUE, INC. RELATING TO THE RENTAL OF ROOM NO. 102 IN THE MODESTO COMMUNITY SERVICE CENTER IN THE CITY OF MODESTO"

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Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Merrill

The City Manager suggested that the League be permitted to have art displays in this room until it was leased to some other organization. Councilman Hammond objected on the basis that anyone who used the facility should pay rent to assist in the cost of maintaining the building.

ACCEPT REPORT AND AUTHORIZE PAYMENT TO C. D. NATTINGER & CO. 14-110

RESOLUTION NO. 58-305

A RESOLUTION ACCEPTING THE AUDIT OF THE CITY OF MODESTO RECORDS FOR THE YEAR ENDING JUNE 30, 1958 FROM C. D. NATTINGER & COMPANY AND AUTHORIZING PAYMENT FOR AUDIT IN THE SUM OF \$1,400.00

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Merrill

ACCEPT CURB AND GUTTER IN ASHBY PARK FROM TANNER CONSTRUCTION CO.

RESOLUTION NO. 58-306

A RESOLUTION ACCEPTING THE CONSTRUCTION OF CURB AND GUTTER IN ASHBY PARK FROM TANNER CONSTRUCTION COMPANY; AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: Merrill

APPROVE DATE OF OCTOBER 16 FOR HOLDING CITIZENS' SEMINAR 15-06

The City Manager reported, as directed by the Council, the date of October 16 for holding the proposed Citizens' Seminar had been checked out and it represented the minimum conflict of other activities.

MOTION

That the date of October 16 be set as the date for holding the Citizens' Seminar.

Moved by Robinson      Seconded by Hammond      Unanimously carried

REPORT FROM PLANNING COMMISSION RE: REQUEST FOR REZONING OF J. QUARESMA 15-10

Director of Planning Smeath reported that as directed by the Council, the Planning Commission had considered the Council's referral of the John Quaresma matter and considered that there was no reason at this time for it to take any action on the matter and Mr. Quaresma could apply for rezoning if he saw fit. Mr. Quaresma is considering this action.

APPROVE USE OF DEPARTMENTAL SUMMARY REPORTS FOR 1957-58 AS ANNUAL ADMINISTRATIVE REPORTS 15-14

The City Manager pointed out that the staff was required to make an annual report on administrative matters. Each department has been making a summary of the year's activities in its June report and in the past the Council, by motion, has been accepting this report as the required administrative report, in order to save staff time.

MOTION

That the summary report included in the June monthly reports of each department be accepted as the annual administrative report.  
Moved by Robinson      Seconded by Spaulding      Unanimously carried

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REPORT ON VACANT LOT CLEANING HELD OVER

This matter was held over at the request of the City Manager.

REPORT ON CALIFORNIA FREEWAY SYSTEM 15-25

The City Manager filed a copy of the report entitled: "THE CALIFORNIA FREEWAY SYSTEM" prepared by the Department of Public Works Division of Highways, to the Joint Interim Committee on Highway Problems of the California Legislature in conformity with Senate Concurrent Resolution No. 26, 1957 Legislature. He reported that there would be a meeting on the report held in Stockton, after the first of November and the Council could be advised of the hearing.

REQUEST MAYOR TO WRITE LETTER TO SOROPTIMIST CLUB 15-32

With the unanimous consent of the Council, Councilman Arata was permitted to raise a matter not on the agenda. He asked that Mayor Marks write a letter on behalf of the Council to the Soroptimist Club to clear a rumor that the Council was opposed to the establishment of a Senior Citizens' Center.

MOTION

That Mayor Marks be authorized to write this letter to the Soroptimist Club, including the statement from the minutes of the position of the Council on the matter.

Moved by Arata      Seconded by Robinson      Unanimously carried

REQUEST OF CITY MANAGER TO BE ABSENT FROM CITY 15-47

MOTION

That the City Manager be permitted to be absent from the city Oct. 10, to participate in a trip sponsored by the Civil Defense organization.

Moved by Adams      Seconded by Robinson      Unanimously carried

ADJOURNMENT

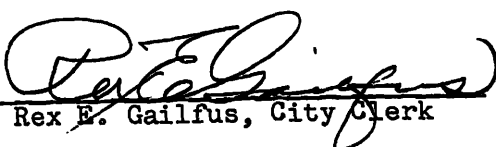
MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 7:37 P.M.

ATTEST:

  
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M. as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks

Absent: Councilmen: Merrill

The pledge of allegiance to the flag was given by all those present.

Rev. R. L. Butterfield gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of September 3 and 10, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM MODESTO SAFETY COUNCIL RE: CONSTRUCTION OF FREEWAY 1-16

Mayor Marks read a copy of a letter sent by the Modesto Safety Council to the California Highway Commission urging all interested parties involved in the execution of the freeway agreement to resolve their differences and expedite the construction of the Modesto portion of the U. S. 99 Freeway in order to prevent needless loss of time and property.

City Manager Miller suggested that the Safety Council be furnished with a copy of his "Report on freeway and railroad grade separation patterns---Fresno and Modesto", which would be discussed later in this meeting.

#### REQUEST TO DISPLAY BANNER ACROSS CITY STREETS FILED BY DEMOCRATIC CENTRAL COMMITTEE 1-44

A request filed by John A. Seaman, Chairman of the Democratic Central Committee to display a banner across city streets was considered. Provisions of Resolution No. 58-84 establishing policy of the Council and listing organizations permitted to display banners in this manner was reviewed.

#### MOTION

That the Council policy should not be changed, that the request be denied and the City Clerk be directed to so notify the petitioner.

Moved by Spaulding                      Seconded by Arata                      Unanimously carried

#### LETTER FROM SENATE FACT-FINDING COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT 2-72

The City Manager briefed a communication received from the Senate Fact-Finding Committee on Commerce and Economic Development advising that meetings are to be held on Oct. 1 in Fresno and on Oct. 2 in Sacramento. Members of the Industrial Development Committee are encouraged to attend, he stated. The City Clerk was directed to remind the members prior to the meetings.

LETTER FROM OFFICE OF SENATOR T. H. KUCHEL RE: CROWS LANDING NAVAL  
AUXILIARY AIR STATION DEVELOPMENT PLANS 1-90

The letter was read. Mayor Marks stated he would personally acknowledge receipt of the letter.

FINAL ADOPTION OF ORDINANCE <sup>No.</sup> 260-C.S. TERMINATION OF LEASE WITH CENTRAL  
CALIFORNIA ART LEAGUE 1-128

ORDINANCE NO. 260-C.S. entitled

"AN ORDINANCE TERMINATING A LEASE AGREEMENT WITH THE CENTRAL CALIFORNIA ART LEAGUE INC. RELATING TO THE RENTAL OF ROOM NO. 102 IN THE MODESTO COMMUNITY SERVICE CENTER IN THE CITY OF MODESTO"

introduced on September 17, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Robinson           Seconded by Adams  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None                   Absent: Merrill

INTRODUCE ORDINANCE ESTABLISHING BUILDING LINE SETBACKS 2-02

Provisions of an ordinance which would establish building line setbacks on certain portions of McHenry Avenue, Tully Road, Orangeburg Avenue, Roseburg Avenue, Coldwell Avenue and Yosemite Boulevard were briefed by City Attorney Grimes.

The City Manager stated that the City staff had been working on a building line setback ordinance for a considerable period of time but due to the near completion of the general plan the City-wide ordinance has been held up for presentation after the plan is adopted. In the meantime there are a number of streets which need protection in order that buildings will not be constructed within or too close to streets. On some of these streets setback lines were previously established by the county in areas which have since been annexed to the city. On other streets the proposed setback line locations conform to widths which have been clearly established by subdivision design, acceptance of dedications for street widening and other city actions.

Director of Planning Smeath displayed a sketch and reported on the proposed width of the streets.

ORDINANCE NO. 261-C.S. entitled

"AN ORDINANCE ESTABLISHING BUILDING LINE SETBACKS ALONG CERTAIN STREETS PROHIBITING THE ERECTION OF BUILDINGS OR STRUCTURES OR THE INSTALLATION OF WELLS, EXCAVATIONS, AND OTHER SUB-SURFACE STRUCTURES THEREIN, PROVIDING FOR THE ENFORCEMENT THEREOF AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF"

was introduced and ordered printed and published as required by the Charter.

Moved by Hammond       Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None               Absent: Merrill

CONSIDERATION OF LEASE REQUIRED BY OPERATOR OF KIDDIE RIDES, INC.

Attorney John M. Trimbur, representing Kiddie Rides Inc. appeared before the Council to present his client's request that the Council amend the

Modesto Municipal Code to eliminate the rocking horse type rides amusement device for children from the section regulating gaming devices which requires a license tax of \$1000. He asked that the Council further consider the definition of "amusement device" which might provide a solution as far as the rocking horse device was concerned.

Since the original ordinance had been passed many years ago, the Council agreed that the study should include consideration of new types of amusement machines.

MOTION

That the matter be referred to the staff for study and report.

Moved by Adams      Seconded by Spaulding      Unanimously carried

HEARING ON PROPOSED CHANGE OF ZONE BOUNDARIES - SECTION 16 OF ZONING MAP 3-47 (MARK RANDY PROPERTY)

Mayor Marks declared that the hour of 8:00 P.M. had arrived, the time set by the Council for the public hearing on the proposed change of zone boundaries as shown on Section 16 of the Zoning Map as follows:

1. That the west 330 feet of the north 200 feet of lot 14 and the west 330 feet of lot 13 of the Coffee Colony, be changed from R-1 Single-Family Residential Zone, to C-1, Neighborhood-Commercial Zone;
2. That the east 330 feet of the north 200 feet of lot 14 and the east 330 feet of lot 13 of Coffee Colony be changed from R-1 Single-Family Residential Zone, to R-3, Multiple-Family Residential Zone.

The City Clerk's certification on the publishing and distribution of the notice of the hearing was noted. He reported that no written protests had been filed.

Resolution No. 455 adopted by the Modesto Planning Commission on August 19 determining that rezoning of the property as requested was required by public necessity, convenience and general welfare on the basis that:

- 1- Commercial zoning as requested is in harmony with present land use of the surrounding area; and
- 2- The area requested for R-3 zoning was so zoned by the County prior to its annexation to the City.

was noted by the Council.

Director of Planning Smeath pointed out that the present businesses operating in the area were individually permitted by the county by land use permits some time ago. A portion of the American Transit Mix Co. Inc. property and A. D. Burtis property adjoining were zoned C-2 by the County. After city and county discussion on commercial zoning as clusters, rather than as string development along a street, the county rezoned all of the area to R-3 before the area was annexed. This left all of the business non-conforming.

When the area was annexed, Mr. Mark Randy, representing a number of property owners, filed an application with the City Planning Commission to have the property zoned C-1 and R-3, since it automatically came in as R-1 when annexed, Mr. Smeath stated.

At the public hearing held by the Commission the staff recommended that the request for commercial zoning be approved on the following basis but that the request for R-3 zoning be denied:

- 1- That the commercial development had already been approved as business property officially and been permitted to build in a cluster;
- 2- If the businesses are made non-conforming, technically they may be expected to be eliminated over a period of 20 or 30 years but may not be healthy businesses in the meantime and problems would develop;
- 3- That this area, one-half mile distant from McHenry Village, is not as far as standards call for, but some commercial development could be had here of a C-1 character to serve local residential areas;
- 4- The staff recommended that the back part of the area not be zoned R-3 until more plans for the development were made and it was known what the future of the Transit Mix Company industrial development would be.

The County has unofficially expressed serious concern about zoning areas as C-1 along major highways since it has attempted to stop the long-strip development. As part of this proposed rezoning the property owners have agreed informally with the Commission that there would be adequate provision made for traffic treatment on McHenry Avenue. At the present time there are many street openings for these businesses onto McHenry Avenue and under some type of controlled plan there could be considerable limitation of the openings of businesses and therefore traffic conflicts onto McHenry Avenue.

Discussions have been held on the possibility of establishing a front-age road on McHenry Avenue north of MID lateral No. 3 to protect through traffic.

The planning staff, Mr. Smeath stated, feels that it has not quite been able to resolve this problem sufficiently enough to make a recommendation to the Council on what the street width should be. One week delay by the Council on its decision would assist the staff in firming its recommendation. The Commission and staff feels that it would be desirable for the Council when considering the approval of an area such as this for commercial purposes that there should be a condition attached----that adequate protection of traffic in front of the commercial area by limitation of access or by proper street design should be included in the agreement with the property owners. The County has been notified as to why the Commission made this recommendation on zone change.

Mayor Marks asked if any member of the audience wished to file any protest or make any comments.

Mark Randy urged that McHenry Avenue be developed out to the city limits of Floyd Avenue while the property was available rather than improve the street at a later date. He stated that he would have no objection to working with the staff during the week to see if his plan could fit within the frame work of its recommendation.

Don Schmidt, manager of the American Transit Mix Co., spoke in favor of the proposed rezoning but asked that the Council bear in mind that the company was not applying for any rezoning at this time but even though the plant has been established since 1941 it was in a "spot" with C-1 and R-3 zoning coming in next to its industrial plant.

Mr. Smeath answered a question raised by Councilman Hammond---that zoning commercial would not create any more difficulties for the existing industrial use than having it zoned residential.

Councilman Hammond expressed concern that some development plans for the area proposed to be rezoned could be of such a nature that it might not be compatible with the present operation. Those existing operations have "seniority rights" and the new developers should recognize if the rezoning is granted they are faced with this condition and the Council should not be burdened with any complaints later on about the Transit Mix Co. operation. He suggested that the Council receive a report on the type of development which would be permitted under the type of zoning proposed.

Mayor Marks declared the hearing closed.

MOTION

That the matter be continued until 4:30 P.M. Wednesday, October 1, for further consideration by the Council.

Moved by Spaulding      Seconded by Robinson      Unanimously carried

GRANT REQUEST OF WALMAR PROPERTIES CORPORATION FOR VARIANCE TO PERMIT BLACKTOP ALREADY INSTALLED TO REMAIN 5-15

The hearing on the appeal filed by Walmar Properties Corp. for a variance to leave the blacktop surface already installed in the public right of way at 1417 Coldwell was considered by the Council at 8:15 P.M.

Director of Public Works Ray reported on his investigation and suggested that the Council may wish to take the following into account when considering the request:

- 1- Section 7-1.203(c) of the Municipal Code provides, "No sidewalk, driveway, driveway approach, curb or curb and gutter shall be constructed other than of concrete unless special permission therefore has first been obtained from the Council".
- 2- If a request had been submitted to the Council, the department would have recommended granting of the same on a temporary basis for the reasons that:
  - (a) The street needs to be widened and improved with dedications of right of way required of 10' on each side.
  - (b) The dedication of the necessary right of way and the installation of an isolated section of curb and gutter at this time would be undesirable due to the lack of improvement in the rest of that section of the street and the attendant problem of drainage of an isolated section.
- 3- Under date of July 23, 1958, the Council adopted Resolution No. 58-235 establishing the basis upon which special permission will be granted by the Council to construct sidewalks, driveways, driveway approaches, curb or curb and gutter work, of materials other than concrete.

Mr. Ray stated that if a variance was granted that the following conditions be considered:

- (a) That permission would be on a temporary basis, and that the applicant would agree to dedicate the necessary right of way and install curbs and gutters, standard driveway approaches, and concrete sidewalk upon request of the city.
- (b) That a bond or cash deposit be posted with the city to guarantee that such installation would be made with said bond to be in the amount of \$500 and in form satisfactory to the City Attorney.

Mr. Walter Schenewark, of Walmar Properties, Corp., agreed to the conditions outlined by Mr. Ray.

Mayor Marks declared the hearing closed.

RESOLUTION NO. 58-309

A RESOLUTION APPROVING REQUEST OF WALMAR PROPERTIES, CORP. FOR A VARIANCE TO PERMIT BLACKTOP SURFACING INSTALLED IN SIDEWALK AND DRIVEWAY AREAS AT 1417 COLDWELL AVENUE TO REMAIN

Introduced by Hammond      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

The City Manager was directed by the Council to notify in writing all the contractors of the code provisions for doing this type of work.

FURTHER CONSIDERATION OF BIDS RECEIVED FOR THE CITY HALL AND PARKING GARAGE  
 5-92

Mayor Marks announced that further consideration would be given at this time to the bids received for the construction of the city hall and parking garage.

Architect Milton Pflueger, John Bomberger, associated with Mr. Pflueger, and Mr. Lundberg, member of Mr. Pflueger's staff were present.

As directed by the Council, City Attorney Grimes filed a report outlining his opinion on questions raised by the Council, (a copy is on file with records of this meeting) on the bids received for the work.

He stated that it was his opinion that none of the bids submitted for Part II, Plumbing work, or Part III, Mechanical work, separately, complied with the provisions of the contract documents and specifications by reason of their failure to list sub-contractors. The instructions to bidders provided that any proposal which does not include a complete list will not be considered.

It was his opinion that the separate bid submitted for Part I, general construction, complied with the contract documents and specifications and was a valid bid which could be accepted.

He reported that this opinion did not relate to the bids received for Part II and Part III Combined, as the low bid received complied with the contract documents and specifications and was a valid bid which could be accepted.

He stated that generally speaking the failure to specify subcontractors was of no legal consequence if none of the work covered by the bid was to be performed by a subcontractor. In such a case, the contractor, by failing to specify subcontractors, agrees to perform that portion of the work himself. However, in this case the specifications for Part II provided that the automatic sprinkler system should be an ordinary hazard system installed by a subcontractor licensed to install fire sprinkler systems.

The specifications relating to Part III provide that "equipment and material equal in quality and utility to those hereinafter mentioned will be accepted. When specific names are used in connection with materials hereinafter mentioned, they are mentioned as standards only, but this implies no right to use other materials or methods unless approved as equal in quality or utility by the architect."

The specifications relating to Mechanical work also specify the furnishing and installation of a complete system of pneumatic temperature control as manufactured by the Johnson Service Company, because equipment and material equal in quality or utility may be accepted and material specifically named are only standards, a temperature control system of equal quality and utility other than that manufactured by the Johnson Service Company might be provided by the bidder. Thus it is not possible to ascertain from the bids who is to furnish and install the temperature control system.

Attorney Myron Moyle, representing Hansens', low bidder on Part III-Mechanical work, commented on the fact that the low bidder on the General Construction did not list any reinforcing steel subcontractor. He also pointed out that the low bid submitted by Baker & Newman on the Combined Part II and III work did not list a painting subcontractor and that the cost of the painting would exceed the one-half of one percent of the bid provided in the specifications. Outside of Baker & Newman Company, Inc. and possibly one or two more of the specialty contractors, none of them listed their subcontractors. The form furnished by the Architect and City did not include a place for the listing of the subcontractors, as was true of the form furnished the general construction bidders. The fact that so few bidders complied with these technicalities, if would appear there was something amiss in the whole situation. He considered that since it was the Council's desire to get as many people as possible to furnish bids so that the construction can be done at the lowest possible cost the plans and specifications should be drawn accordingly. He contended that the plans and specifications which were adopted by the Council and which were given to the bidders in this matter did not comply with the statement of the state law regarding bids and specifications. He considered that the plans and specifications were not complete as they required a bidder to furnish plans and specifications for the installation of the temperature controls. He stated that there were several instances in the plans where a particular person was designated to do particular works which is illegal. He considered that this stifled competitive bidding and did not give an opportunity for wide bidding but limits it to those particular individual or class of individuals which are specified in the specifications. He claimed that the requirement of a specific type of material or equipment limited the opportunity for competitive bidding. It eliminates the contractor from installing the materials, assuming he is otherwise qualified and licensed to do so. It was his personal opinion that the specifications were so uncertain that they stifled competitive bidding, that any bid let under them would be void, that a suit would stop such a bid and that he would be forced to so advise his client. He suggested that the Council had only one means of righting this mistake---reject all bids, rewrite the plans and specifications, where they are deficient, and again call for bids and have the bids so written that the ordinary contractor can bid on them.

Attorney Francis Halley, representing Baker-Newman Inc. bidder on Combined Part II and III, filed a written copy of his oral protest filed at the meeting of September 17.

He pointed out that Attorney Moyle had abandoned any attempt to support the low bids for Parts II and III and now admits that the low bids for Parts II and III are invalid. Having recognized this fact, Mr. Halley stated, Mr. Moyle has now shifted his attack, not particularly to the low Combined bid of Parts II and III, but to the entire specifications.

He reminded the Council that the statement made by Attorney Moyle relative to the failure of Baker-Newman Inc. to list the painting subcontractor means, as provided in the specifications, the company will do this work. The only reason the other bidders did not list their subcontractors was that they failed to read the specifications and failed to comply and now in order to resolve their difficulty are asking that the city revise its specifications and start all over again. The contention that

Mr. Hansen has been barred from competitive bidding is an unusual statement to come from the low bidder. The low bidder means not only the low bidder in the amount of money, but also that the bid conforms with the specifications. He pointed out that the specifications delineated the work with a great deal of particularity and that Mr. Moyle's contention to the contrary was questionable. Plans and specifications permit materials of equal quality, he pointed out, and the law has been complied with contrary to Mr. Moyle's contention. Since Mr. Moyle's client did not list any subcontractor, he did not give the Architect an opportunity to decide whether or not he was suggesting some temperature control of equal quality.

He stated that if the Council had any question about the arguments brought up by Mr. Moyle that he would like to have the opportunity to research the particular points raised.

Attorney A. Frad, representing Peterson Plumbing Company, low bidder on Part II, concurred in much of Mr. Moyle's statements. His client, he stated, was misled by the bid proposal which did not provide a listing for subcontractors as was done for the general contractors. He took exception to the portion of plumbing specifications which provided that the contractor supply plans for the sprinkling system. The architect should supply these plans, he stated. He considered that this was a defect in the specifications which might "prove fatal". He asked that all bids be rejected and a new call be called for.

In rebuttal to Attorney Halley's arguments, Attorney Moyle pointed out that there was an inconsistency in the specifications if Baker-Newman Inc. would be permitted to do the painting and Mr. Hansen, who is well qualified, was not permitted to install the heating controls. Mr. Hansen has a contractor's license to do this work while it is possible that Baker-Newman does not have a painting contractor's license. He contended that the specifications were invalid and therefore void because they specified that a manufacturer or a certain firm must do the installation of heat controls. This is the thing the courts have held illegal, not as a matter of fraud, but as a matter which opens the door to favoritism and stifles competitive bidding.

Answering a question raised by Councilman Arata, City Attorney Grimes stated that it was conceivable that a law suit could be brought in which the individual Councilmen could be held responsible.

Mayor Marks pointed out that the Council was representing all of the taxpayers of the city including bidders and it was its desire to see that the best bids, consistent with the law, are accepted. The fullest, fairest public hearing will be held so that the Council could decide on the basis of its best judgment, conscience and recognition of what is best for all the 34,000 citizens in the city.

The City Attorney commented on some of the remarks made by the Attorneys representing the bidders. He agreed with Mr. Moyle that probably the only way to avoid all questions of any controversy would be by rejecting all bids and re-advertising. This is obvious because otherwise there are contentions being made here which may result in litigation. What the outcome would be no one knows.

The City Attorney stated that notwithstanding the arguments raised by Attorneys Moyle and Frad, he believed that all of the contract documents and specifications were valid. The authorities of municipal law, are as a general rule, clear that there is discretionary power given to the Council in awarding bids and determining the provisions that are to be included in the specifications. He stated that there was no question in his mind that the Council could approve the specifications requiring certain type of work

to be furnished by a subcontractor. He disagreed with Mr. Moyle's contention that the specifications require the temperature control system be done by the Johnson Service Company because the specification specifically declare that when names are mentioned they are only standards and materials and quality of like utility may be utilized. The point brought up about the Baker-Newman Inc. not listing a painting contractor is answered by the same point made, in his opinion, on the general construction bid----that the specifications do not require the painting to be done by a subcontractor.

He believed that the purpose of competitive bidding has been served in these specifications. They allowed an opportunity for those interested to submit bids and specified the job so that the work could be determined and the cost of it allocated. He did not see any stifling of competition. The law in California is clear that even patented articles may be referred to and required in specifications so long as all bidders have an opportunity to secure the patented devices. Every bidder under these specifications had an opportunity to submit a competitive bid, based upon the provisions of the specifications. Referring to the instructions to bidders and to the notice to bidders and to the provisions within the specification which refer to the listing of subcontractors, it seems that there was adequate reference to the requirement for the listing of subcontractors and such lists were provided in a number of bids received notwithstanding that there was no particular place provided on the form for this requirement.

Mr. Pflueger stated that

- 1- The reinforcing steel is not required to be placed by a subcontractor and by not listing such a subcontractor the Council rightly assumes that this work will be placed by the general contractor, which is not at all unusual.
- 2- The painting within the mechanical work is the same as item I only to a much lesser degree and the Council again recognizes that this work will be done by the contractor and a subcontractor will not be involved. There is no rule which requires that the painting of the piping etc. be done by a painting subcontractor.
- 3- It was difficult for him to understand the complete reversal of the low bidder on part three. One moment his bid was the best and the result of very careful competitive bidding and the next week---all bids should be thrown out. There were 5 to 7 bids submitted on each category and there was no lack of competition at all. The number of bids and the closeness of the bids indicates keen competition.
- 4- Materials or equals was discussed at great length. Specifications definitely state that substitutions can be made upon approval by the architect. There has never been a job where materials by manufacturers or makes has not been mentioned by names. It is impossible to list all equal manufacturers of that same article obviously. This is the reason for the clause "or equal or approved by the architect".
- 5- The matter of throwing out the specifications and plans because of invalidity or lack of information is totally unfair. The opposite is true, they are clear and give every opportunity for competitive bidding.
- 6- The matter of lack of plans for the sprinkler systems was raised. Sprinkler plans are drawn by the licensed contractor, in this case a subcontractor and before the work can be installed must be approved by the Board of Fire Underwriters. They will only be approved by this body by being prepared by a licensed contractor in that field. There

6- Would be no reason to draw lines for sprinkler piping in the garage of this building which did not have and could not obtain the approval of the Board. The plans are then submitted to the Architect for his approval before any work is started.

7- A subcontractor list was included in the form proposal on the general work. The general work involves many divisions and much is done by subcontractors. The only reason the list is put in is to assist the bidder in formulating his list of subcontracts. The division of the specifications, as to plastering, carpentry, mill work, painting, etc. is a division which the architect has formulated. The general contractor, as the prime contractor, need not subcontract his work in that way at all. If he is of a category that wants to put 3 or 4 of these separate divisions in one contract he is able to do this and approval would be given if the subcontractor was capable. The list was not put into the mechanical and plumbing trades for the reason that there are few involved and it would take no time for the bidder to jot down on any of the pages of the proposal, the two, three or four subcontractors, he proposed to use. There is no law statewide or otherwise, which requires the forms to have such a subcontract list given to the bidders. The law is clear that the bidder must submit a contract list however. Whether it is included in the bidding document in the form he obtains, is neither here nor there. It is up to the bidder to write in his subcontractors.

Mr. Pflueger recommended that the Council accept the opinion rendered by the City Attorney. He considered that the Council had the benefit of very keen competitive bidding, good pricing, good prime contractors, good subcontractors. The argument of one contractor vs. another could go on indefinitely and next time be worse for other points not brought up this time and there would be no end to the arguments.

Mr. George Hansen stated that his company installed many control systems for companies similar to the Johnson Service Company and was capable to do the work. He stated that based upon the City Attorney's opinion and statements made by Architect Pflueger that "he wouldn't take the job on a silver platter".

Mayor Marks raised the question---additional costs involved under segregated bid basis vs. combined general construction.

Director of Public Works Ray considered that there would be more coordination of the work involved than in inspection alone. He considered that just as much inspection would be involved regardless of whether the award was made on a segregated bid basis. The city would be to some degree its own contractor and the city's representative would be more or less a general superintendent coordinating the work of the various prime contractors involved in completing the construction.

Architect Pflueger answered a question raised by Mayor Marks that there would be an advantage in having the plumbing and mechanical in one contract rather than two as far as coordination and inspection because piping was involved in both bids and in the placing of hangers for the support of the piping, etc. and it could be more readily coordinated by one firm than by two. If there is greater coordination by one firm, it will lessen the need for the close inspection and coordination on the part of the city inspectors, the architect and engineers.

Councilman Hammond stated that he was under the impression that the forms, as prepared by Mr. Pflueger, were perfectly in order. The fact that there was not a page for listing subcontractors for Parts II, III and IV, was immaterial for the reason that on those bids the architect would not be in a position to delineate which activities would be subbed except in the specific instances mentioned by the City Attorney. If the state law has been in force for sometime requiring the listing of subcontractors, he stated that he was at a loss to know why they were

not listed. All bidders bid on this type of job constantly and there should be no questions or reasons for this confusion.

He stated that from the standpoint of the specifications it would be necessary for the plumbing contractor to list a subcontractor because of the Board of Fire Underwriters' requirements but he could see no justification for Mr. Hansen to list a subcontractor on the mechanical work if he was licensed to do the work required on the temperature controls. The "or equal" clause applies to the installation as well as to the materials, he stated. Mr. Hansen should be permitted to do this work himself if he is licensed to do so.

Mr. Pflueger answered questions raised by Councilman

Hammond:

1- That since the general construction contractor had not listed his subcontractor for the reinforcing steel it would not be required for the city to obtain a signed statement from him prior to award of bid that he would do the work and not let it out for bid. By not listing his reinforcing steel as a subcontractor he is in effect telling the city that he is doing the work himself, which is perfectly legal and is not unusual. In the letting of the contract to this prime contractor no responsibility falls on the city because no subcontractor was listed.

2- That the work in parts 2 and 3 to be done by subcontractors could not legally be done on the hourly or per diem basis, because the specifications and contract documents were not written in this manner.

Fred Mastagni, Acme Construction Company, stated that he opposed segregated bids. When these bids are accepted four prime contractors are created, without general licenses, therefore it is obvious Baker Newman Inc. cannot do painting unless it has a general license. The primary purpose of the sub-listing law was to keep the general contractors from peddling the sub bids after the bid has been let. A contractor is assumed, under the law, to do the work himself if he does not list his subcontractors. It is not within the jurisdiction of the Council, Architect or anyone else to say Hansen's, Pederson's or Baker-Newman's bids are not right. Another law which has not been mentioned is the regulating of a contractor. If Mr. Hansen wants to "stick his neck out" and assume to do the work himself it is not within the jurisdiction of this Council to say he can't do it, regardless of the fact it is written in the specifications. If he is willing to pay a 20% penalty it is his business and the same thing applies to the plumbing and general contractors. The subcontractors are now on the other side of the fence, fighting about a law which they had put into effect to spite the general contractors.

If this Council, Mr. Mastagni stated, throws out the low bidders on a technicality, it is exceeding its authority and is regulating contractors and can be held liable personally under a taxpayer's suit.

He answered a question raised by Mayor Marks that the higher costs to the city on a segregated basis would come from the extra claims because instead of one contractor trying to hold down the extras, there would be four contractors trying to build them up. He stated that in his opinion segregated bids were legal but unethical. Segregated bids have a tendency to attract careless bidders due to the fact the liability is divided and it has been his experience that in the long run when the overall costs are all in, including inspection, extras, etc., the owner gets a better deal with one general contractor

Mr. Pflueger answered questions raised by Attorney Frad and Hansen on the requirement of the Board of Fire Underwriters on plans for the sprinkler system.

Mr. Hansen contended that there must have been some good reason why all the plumbers bidding on part II failed to list their sub-contractors. He stated that although his legal advisor has stated that if his low bid was not accepted that it could be taken to court, he had no intention of suing the city because it would be unpleasant for him to go on the job under these conditions.

Mayor Marks asked the City Manager for his recommendation. Mr. Miller stated that it was his understanding, after years of experience, that public officials acting in good faith and according to the law are not personally liable for such action. He commended the bidders for their work in preparing and submitting bids to be certain that the city received good bids. On the basis of the City Attorney's statement that the specifications and bids before the Council were valid and could be accepted and on the basis of advice given by the architect that the bids are favorable to the city and have been obtained on the basis of the city's interest, and in fairness to everyone, taxpayers especially, that he recommended the valid bids be accepted as recommended so that the construction of the city hall could proceed without further delay.

Councilman Hammond commented that there was such a halo of confusion surrounding the segregated bids that he was inclined to think that the Council should look carefully at the bid of the lowest general contractor. The saving of \$35,000 on a project of this magnitude would be minor and it would be easy, due to confusion which could arise, to spend much more than that amount of money. Considering all of the ramifications, the Council would solve a lot of problems and probably save the taxpayer's money by considering the lowest general contractor.

The City Attorney answered a question of Councilman Adams' that the Council had the authority to determine if it was in the public interest to accept one general contractor rather than accept the segregated bids.

Pete Ruffino asked that the Council take the taxpayers into consideration when awarding the bids and save all the money possible.

Mr. Pflueger answered the question raised by Councilman Hammond on segregated bids. Up to a month before going out to bids it had been established, at least temporarily on the basis of one general bid. After the County accepted segregated bids on its building at an approximate saving of \$35,000 on a bid of \$1,500,000. the Council had asked that segregated bids be called for on the city building, hoping to realize the same type of proportional savings. A greater amount than this has been saved. He stated that he was not in favor of segregated bids either and it was not his decision to go to segregated bids and combined bids, but the Council's. The result has been just as the Council hoped for when it made its first decision. He stated that he could not understand that after having obtained the result which it envisioned primarily that it now would possibly go the other way and disclaim interest in segregated bids.

He believed that the savings of \$35,000 would not be absorbed in higher inspection costs and extras, etc., because there would be a number of prime contractors, rather than one.

The City Manager read a letter from County Administrator Hane advising that the Board of Supervisors intended to remove county offices from the M.I.D. building on or before the end of the lease period, May 31, 1959.

Mayor Marks pointed out that by including alternate "X" in the award it would permit the County to negotiate at a later date with the contractors if they were unable to move out of the building. No Council objections were offered to including this alternate in the bid award.

RESOLUTION NO. 58-310

A RESOLUTION ACCEPTING THE BID OF RON FISKE CONSTRUCTION COMPANY FOR PART I-GENERAL CONSTRUCTION OF THE CITY HALL AND REJECTING ALL OTHER BIDS RECEIVED FOR PART I.

Introduced by Mayor Marks      Seconded by Adams  
 Ayes: Adams, Robinson, Spaulding, Mayor Marks  
 Noes: Arata, Hammond              Absent: Merrill

RESOLUTION NO. 58-311

A RESOLUTION ACCEPTING THE BID OF BAKER-NEWMAN INC. FOR PART II PLUMBING WORK AND PART III-MECHANICAL WORK OF THE CITY HALL AND REJECTING ALL OTHER BIDS RECEIVED FOR THESE PARTS, BOTH SEPARATE AND COMBINED

Introduced by Adams, Seconded by Mayor Marks  
 Ayes: Adams, Robinson, Spaulding, Mayor Marks  
 Noes: Arata, Hammond      Absent: Merrill

RESOLUTION NO. 58-312

A RESOLUTION ACCEPTING THE BID OF MODESTO INDUSTRIAL ELECTRICAL CO., INC. DBA INDUSTRIAL ELECTRICAL COMPANY FOR PART IV-ELECTRICAL WORK OF THE CITY HALL AND REJECTING ALL OTHER BIDS RECEIVED FOR THIS PART

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Robinson, Spaulding, Mayor Marks  
 Noes: Arata, Hammond              Absent: Merrill

RESOLUTION NO. 58-313

A RESOLUTION REJECTING CERTAIN BIDS RECEIVED FOR THE CONSTRUCTION OF THE CITY HALL

Introduced by Mayor Marks      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None      Absent: Merrill

Councilman Arata stated that he had favored the rejection of all bids and the readvertising for new bids.

Mayor Marks declared a five minute recess at 11:15 P.M.

RECONVENE COUNCIL MEETING 16-20

Mayor Marks reconvened the meeting at 11:20 P.M.

REPORT ON FINANCING THE CITY HALL CONSTRUCTION 16-20

The City Manager proposed a preliminary schedule of the estimated remaining expenditures necessary to complete the new city hall and parking garage, together with available sources of money.

Approximately \$1,175.00 should be made available in the 1958-59 budget for expenditures or encumbrances, the remaining expenditures can be then made from the 1959-60 budget.

At the present time there is \$1,026,000 appropriated and it is recommended that the remaining \$150,000 be appropriated from the Special Capital Outlay Fund. This sum would be available from:

Garden Refuse Disposal-----	\$40,000
Appropriated Reserve-----	40,000
Transfer of 15th Street property-----	70,000
	<u>\$150,000</u>

The total remaining cost of the parking garage to be paid by the Parking Fund is estimated to be \$98,000, of which only \$76,457 is appropriated in the budget and it will be necessary to provide the additional \$22,000 in the 1959-60 budget because of lack of available reserves in this fund. Omitted from the cost estimates are miscellaneous items necessary to complete the parking garage which would cost approximately \$8,000 and should be provided for in the Parking Fund of the 1959-60 budget. A copy of this report is filed with the records of the project.

#### MOTION

That the staff be directed to prepare the necessary documents to provide for the transfer of funds as reported by the City Manager.

Moved by Hammond      Seconded by Spaulding      Unanimously carried

#### TRANSFER ONE-HALF OF THE 15TH STREET PARKING LOT FOR LIBRARY PURPOSES 16-75

The City Manager stated that the Planning Commission and Library Board had recommended the transfer of one-half of the city's 15th Street property to the Library for a possible future site. The Council had directed that the staff draft the necessary documents to complete this transfer and also to negotiate with the owners of the property adjacent to the Library on 14th Street so that at a future date there would be two choices for expansion of the library facility. He pointed out that the appropriation of funds for the completion of the city hall and 18 hole golf course was not tied in with this transfer. Neither the Commission or the Library Board took into consideration the disposition of the Library Funds if the transfer was made. The matter was considered from the standpoint of the Library only, that the 15th street site be reserved for a long range program of library expansion.

The City Manager reported that two appraisers hired by the city had checked the estimated value previously placed on the 15th Street property and determined that in their opinion the estimated fair market value of the entire half block as of this date would be the same, \$144,000. The value of the south half would be \$70,000 and north half \$74,000. The Library Board had considered the reservation of the north half.

The Council considered that at this time the north half should be reserved for a parking facility, because of its proximity to J Street commercial area and the new motel facility on 16th and I Streets.

The City Manager suggested and the Council did not dissent that it would be some time before the property could be improved and exact location could be determined in the light of the circumstances at that time, by the Council in office.

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## RESOLUTION NO. 58-314

A RESOLUTION DESIGNATING CERTAIN CITY PROPERTY FOR USE FOR FUTURE LIBRARY PURPOSES AND AUTHORIZING AN APPROPRIATION TRANSFER IN CONNECTION THEREWITH

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

GRANT REQUEST OF H. J. TINGLER FOR VARIANCE OF CURB CUT PROVISIONS OF THE MUNICIPAL CODE 17-30

The request of Howard Tingler for variance of curb cut provisions of the Municipal Code was considered by the Council. Mr. Tingler waived the 5 day notice required in section 7-1.106 of the Code.

The Director of Public Works reported that the request was for permission to construct a driveway with a length of 30' in connection with the construction of a commercial building on lots 7 and 8, Block 32, west side of 7th Street, between H and G Streets. Since the property frontage is only 50' and the code provides for a maximum of 40% of the frontage in driveways there is a Code limitation of 20' for this purpose. The request is made in order to provide off-street parking spaces in accordance with parking requirements for C-2 zone. If the request is granted, he stated, this would extend an existing 15' curb cut and driveway for a distance of another 15'. Existing adjacent curb cuts would not be affected but there would be one on-street parking space lost. He recommended that the request be granted under the conditions that 1) the curb cut replacement fee be paid and 2) that all construction be in accordance with the provisions of the Code.

## RESOLUTION NO. 58-315

A RESOLUTION GRANTING A VARIANCE OF CURB CUT PROVISIONS OF THE MUNICIPAL CODE TO HOWARD J. TINGLER

Introduced by Robinson      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

HOLD OVER REPORT ON VACANT LOT CLEANING 17-39

The City Manager reported that a copy of the report would be sent to the Council members and considered at a later date.

APPROVE RIGHT OF WAY CONTRACTS FOR WIDENING McHENRY AVENUE 17-42

The City Manager reported the City's obligations involved in accepting Right of Way contracts from Gladys G. Crane and Rumbley Realty Co.

## RESOLUTION NO. 58-316

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

HOLD OVER REPORT ON MEETING STATE WATER POLLUTION CONTROL BOARD 17-45

Due to the late hour, this report was ordered held over.

REPORT ON INFORMATION REGARDING FREEWAY AND RAILROAD GRADE SPEARATION IN FRESNO 17-47

Copies were distributed to the Council members and discussion held over to the next Council meeting.

APPROVE DRAFT OF LETTER TO DIVISION OF HIGHWAYS RE: INTERIM HIGHWAY IMPROVEMENTS 17-55

The City Manager, as directed by the Council, presented for Council approval a draft of a letter to be sent to the Division of Highways regarding interim highway improvements. He read the letter, a copy of which is on file with the records of this meeting.

## MOTION

That the letter be approved.

Moved by Adams      Seconded by Mayor Marks      Unanimously carried

REPORT ON APPLICATION BY WESTERN UNION TELEGRAPH COMPANY FOR RATE INCREASE 17-80

The City Manager reported that a copy of the Western Union Telegraph Company application for a rate increase had been received. No action was taken on this matter by the Council.

HOLD OVER REPORT ON CENTRAL BUSINESS DISTRICT STUDY 17-85

This report was held over.

REPORT ON SALE OF SURPLUS PROPERTY 17-85

The City Manager reported that the city had received \$2,061.51 from the sale of surplus property and the advertising expenses had been \$126.

REPORT ON IMPROVEMENTS TO POLICE BUILDING 17-90

Police Chief Bowers reported that the improvements were complete. Fifty square feet of additional space was realized from the remodeling and better utilization of space available. He invited the Council members to inspect the improvement. The cost was \$1,457.

ADJOURNMENT

## MOTION

That the meeting now in session be adjourned.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 11:55 P.M.

ATTEST:

*Per C. J. Gausfus*  
City Clerk *unc*  
9-24-58 Page 16

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Pro Tempore Hammond presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill and Mayor Pro Tempore Hammond

Absent: Councilmen: Robinson, Spaulding and Mayor Marks

Councilman Robinson arrived at 4:20 P.M. and Councilman Spaulding at 4:10 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. L.B. Lewis gave the invocation.

REPORT ON FREEWAY AND RAILROAD GRADE SEPARATIONS IN FRESNO 1-22

City Manager Miller stated that the report submitted to the Council at the last Council meeting on "Freeway and railroad grade separation patterns -- Fresno and Modesto" outlined a fine precedent and actual pattern where the state had constructed overpasses, at no cost to the City of Fresno, to handle a traffic situation similar to that of the City of Modesto.

The principles involved are the same ones upon which the city is now working with the state -- interconnection of state highways within the city limits.

Director of Parking Carmody reported that in Fresno the grade separations were not a part of the freeway agreement. The actual impetus for the building of the overpasses came from the Division of Highways.

The City Manager suggested that the Council members, if possible, visit Fresno to inspect the project as it would assist in further consideration of this city's problem.

CITY CLERK ORDERED TO SEND COPY OF THIS REPORT TO GREATER MODESTO SAFETY COUNCIL AND DIVISION OF HIGHWAYS AND HIGHWAY COMMISSION 1-50

MOTION

That the staff be authorized to send a copy of this report to the Greater Modesto Safety Council, as an example of what the city is trying to accomplish in this city.

Moved by Arata      Seconded by Merrill      Unanimously carried

MOTION

That the staff be authorized on behalf of the Council to send a copy of this report to J.G. Meyers, District Engineer, State Department of Public Works, Chairman of Highway Commission, Sacramento office of the State Department of Public Works advising that this was the kind of solution the City of Modesto was striving for.

Moved by Merrill      Seconded by Arata      Unanimously carried

LETTER FROM WOMEN'S IMPROVEMENT CLUB RE: SENIOR CITIZENS' CENTER 1-67

A letter from Mrs. James D. Hadley, President of the Women's Improvement Club was read, notifying that the Senior Citizens' Project would no longer be sponsored by this organization.

The Council discussed the possibility of contacting the remaining sponsor, the Soroptimist Club, to determine their interest in order to clarify the Council's direction to the staff to work with these organizations on the Senior Citizens' Center.

**MOTION**

That the City Clerk be instructed to notify the Soroptimist Club on behalf of the Council of the receipt of the letter from the Women's Improvement Club notifying of its withdrawal of support to the Senior Citizens' Center and ask the Club to clarify the status of the project.

Moved by Adams      Seconded by Arata      Unanimously carried

NOTICE OF PUBLIC HEARING ON PRELIMINARY GENERAL PLAN FOR THE MODESTO-CERES-EMPIRE METROPOLITAN AREA TO BE HELD BY PLANNING COMMISSIONS IN CERES 2-12

A letter from Mayor Walter White of the City of Ceres was read, inviting the members of the Council to attend the first public hearing on the Preliminary General Plan for the Modesto-Ceres-Empire Metropolitan Area being held by the Planning Commission in Ceres Community Center, October 9 at 8:00 P.M.

Director of Planning Smeath stated that it was proposed to hold the City of Modesto's first official Planning Commission hearing on Thursday, October 30, 1958 in the M.I.D. auditorium. This date and time appeared satisfactory and the City Clerk was directed to remind the members of both meetings.

ACCEPT BID OF JOHN DELPHIA FOR GRADING OF DRYDEN PARK MUNICIPAL GOLF COURSE 2-60

The City Manager reported receipt of one bid only for the rental of earth moving equipment for construction work on the Dryden Park Municipal Golf Course, in the sum of \$6,135 from John Delphia and recommended its acceptance by the Council. The rental prices are the same as the state uses for this kind of equipment.

**RESOLUTION NO. 58-317**

A RESOLUTION ACCEPTING THE BID OF JOHN DELPHIA IN THE SUM OF \$6,135 FOR RENTAL OF EARTH MOVING EQUIPMENT FOR CONSTRUCTION WORK ON THE DRYDEN PARK MUNICIPAL GOLF COURSE

Introduced by Merrill      Seconded by Robinson

Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Nces: None      Absent: Mayor Marks

REPORT ON PROGRAM FOR COMPLETION OF THE 18 HOLE COURSE 2-68

Mayor Pro Tempore Hammond directed the staff to contact the

members of the Modesto Municipal Golf Club with regard to their offer of assistance to the city in laying the water pipe, and obtain a schedule of work.

Ray

Director of Public Works/reported that the large transit pipe had started to arrive this date.

He reported that Chet Watson, foreman, W.C. Monfort, Melton Roberts, Billy Ray, Albert Coito and Auda Hall, members of the city's pipe laying crew, none of whom were golfers, had offered to work for two Saturday's each, without cost to the city in installing the water pipe line materials in the course.

Mayor Pro Tempore Hammond, on behalf of the Council and community, expressed appreciation to these employees for their thoughtfulness and interest in the project.

Councilman Arata noted that the course had puncture vine and asked if the ground could be sterilized to eliminate this plant. The City Manager stated that a report would be submitted later in the meeting when/Director of Parks and Recreation arrived.

The City Manager reported that the financing of the course was being proposed on the basis that the pipe laying will be done by the club members on a voluntary basis. The club will be contacted immediately to furnish a list of members and a working schedule.

The grading work will start at the sewage disposal area, he reported, as a well is located at this point; the pipe laying can start right in back of the grading and proceed along with the grading. The watering system is so designed that a portion can be laid which will clear 3 or 4 holes and behind this the small pipe can be laid and sprinkling started to settle the dirt. Behind this the fine grading can be started. It is a "tight" program, but if it can be properly timed with favorable weather, the course can be seeded next spring.

He reminded the Council that the plans did not provide for the completion of the driving range, which was to come at a later time. He reported that he had been checking with Mr. Kenneth Durand and was working out the details under which the city can take possession of parcels c and d earlier. This would permit the earlier transfer of the property to the Sportsmen Club. Mr. Durand has offered to continue with the rental of the property, pending the time the city would need it.

Considerable staff time has been spent on the matter of help which will be required. It will be necessary to have two golf course crews, one for the 9 hole course which will be continued after the 18 hole course is opened, and the other crew caring for and bringing along the 18 hole course. The laying of the pipe in the new course will not be limited to the week end only, as far as the city is concerned, the City Manager advised Councilman Arata.

The City Manager stated that the staff would submit reports to the Council on the progress being made so that any Council questions could be cleared.

FURTHER CONSIDERATION OF REQUEST FOR ZONE CHANGE IN SECTION 16 OF ZONING MAP (MARK RANDY) 3-15

Mayor Pro Tempore announced that the hour of 4:30 P.M. had arrived the time set for the further consideration of the Mark Randy

rezoning application for property on McHenry Avenue.

The report, prepared by Director of Planning Smeath and previously transmitted to the Council members, was noted.

Mr. Smeath reported Mr. Randy's letter to the Council advising he had authority to represent all of the other property owners in the area to be rezoned, and they recognized the need for proper width and traffic control on the highway. If the rezoning to commercial use was approved they would dedicate additional land to increase the width of the street on the east side of the street center line to fifty feet, making possible a street one hundred feet wide; grant a three foot tree planting easement adjacent to the street line; and construct at their expense a curb and gutter to city standards located 41 feet from the center line of the street and having only two openings as approved by the City Engineer.

Mr. Smeath stated that the purpose of this was not to put conditions on the rezoning but if it was not done the zoning will not work as well.

In response to a question from Mayor Pro Tempore Hammond, the City Attorney stated that these conditions could not be a part of the zoning but the signed letter submitted by Mr. Randy speaks for itself. The letter was ordered filed as a part of the record.

Mr. Smeath stated that on this basis the planning staff would recommend that the Planning Commission's recommendation on the rezoning of the area be approved by the Council.

Paul Birmingham asked for clarification on the number of curb cuts proposed. He stated that some of the owners were opposed to the proposal for two street openings as it would not permit access to their property from McHenry Avenue.

Mr. Smeath stated that this matter had been discussed at great length with Mr. Randy and it is the staff's understanding that the property owners developed this property on the basis of deep setbacks with some use together of the frontage with limitation of access. The access between properties would be inside on their own property developments of parking area or frontage road, etc.

Mr. Randy stated that since there was four properties involved the number of curb cuts to be permitted was not clear to him. He suggested that the two entrances should be wider or at least three curb cuts be permitted.

Mr. Smeath stated it was the staff's understanding after extended discussions with Mr. Randy that there would be two entrances 30 feet wide 300 feet apart unless the Council approved wider curb cuts, and the arrangements to get to the businesses behind the curb on McHenry Avenue would be worked out by the four owners. If curb cuts are permitted for all four properties, he stated, there is no purpose in having any attempt in control of access.

The City Attorney stated that Mr. Randy's letter represented a "gentlemen's agreement", as there were no detailed drawings available, precise descriptions, or signatures of the other owners involved.

In response to a question from Mayor pro tempore Hammond, Mr. Smeath stated that the Planning Commission's recommendation for rezoning was not made on the condition of limited access, but it

was mentioned that the problem of control of access and street widening would be discussed with the Council. Details were not worked out at the time of the Commission's hearing he pointed out and were not completed until now. It was not presented to the Commission as a detail asking them to act on it.

The City Manager pointed out that Mr. Randy's letter was clear but the basic question was whether there was now any reservation by Mr. Randy. The letter sets forth a proposal which is satisfactory to the city.

Mr. Randy stated that since talking with Mr. Barham and since more than one property is involved he would like to know if there would be any objection to change the number of street openings from two to three.

Councilman Arata recommended that the property owners clear out these matters before the Council considers rezoning.

Richard Barham considered that the owners should not be compelled to provide any other arrangements since they had indicated their willingness to dedicate sufficient rights of way for widening McHenry Avenue. When the time arrives for additional cross roads, etc, it be taken up at that time instead of now when the rezoning is being considered.

Mayor Pro Tempore Hammond pointed out that the reason the Council was considering this matter now was that it was not its intention to continue the former mistakes along this street.

Mr. Smeath expressed surprise that the owners were now unhappy with the proposal as it was discussed many times. Mr. Randy had advised that he represented these owners and could speak for them. The staff recognizes that the major problem is rezoning from residential to commercial. This is the basic factor before the Council today. One of the problems involved with commercial development is the specific generation of heavy traffic. The staff has talked to these owners and to the man who it thought was their representative concerning the need to have a fairly good limitation of access on the basis that residential subdivisions will be required to have frontage roads and only occasional access points to the highway. To continue what is there now is no improvement in the situation. He strongly recommended that if the property owners are unhappy more time be taken, a definite plan be worked out, something the Council could consider. He recommended that both the zoning and street planning program be considered at the same time.

Mayor Pro Tempore Hammond considered in view of the stand taken by the property owners, recognizing the Council is not interested in continuing the present program along McHenry Avenue which is causing so much difficulty, that the matter be held over until the property owners can resolve with themselves how they wish to handle the traffic situation which will be generated by their commercial activities. It is up to them to decide before the zoning change is made just how this traffic will be handled. Complete drawings should be prepared and agreed upon before being presented to the Council.

#### MOTION

That the matter be held over until the property owners are in agreement as to how they want to handle the traffic situation



Mayor Pro Tempore Hammond suggested that one-half of I Street between 10th and 11th Street be closed.

The City Attorney advised that the Council should have the written consent of those merchants involved in the closing before approving the project.

Councilman Arata suggested that the parking lot on 10th between K and L Streets be used but Mr. Quinn pointed out that it would not be satisfactory to show the new model cars. The main idea of the event was the mall which would permit customers to cross the streets and shop at the stores on both sides of the street, Mr. Quinn stated.

The City Manager thought the idea of the mall was a fine idea but more time than two weeks should be given to assure the success of the program. He asked if the program <sup>could</sup> be held later on with some other event, such as Thanksgiving or pre-Christmas shopping so that there would be sufficient time to work out all the details.

Mr. Quinn considered that the city would lose the value of the publicity afforded by the National program. It was only planned to close one block at this time and at some other time have an event where four blocks will be closed.

Councilman Arata suggested that if the parking lot was used that it might be possible to also reserve one section of the street to display cars and hold the shows.

#### MOTION

That the staff be authorized to work with the Merchants Association during the next week to present a specific proposal to the Council at its next meeting.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

INTRODUCTION OF ORDINANCE AUTHORIZING ACQUISITION OF WATER PUMP STATION SITE IN MCHENRY VILLAGE      6-19

ORDINANCE NO. 262-C.S. entitled

"AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY FROM MCHENRY VILLAGE, INC., AS A SITE FOR A WATER PUMPING STATION IN THE CITY OF MODESTO"

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None      Absent: Mayor Marks

REPORT ON VACANT LOT CLEANING      6-36

As directed by the Council, a report on "Vacant Lot Cleaning and Related Matters," dated September 24, submitted by the City Manager was considered at this time. Copy of report is on file with records of this meeting. A copy of the report on the "Demonstration of Rotary Mower", dated September 23, was also filed with the records.

The City Manager asked for Council direction on the cleaning of vacant lots.

Points made in the Council discussion were:

1. That since the work was a seasonal type of activity which would have to be done during the time the city's crews were busy with street work, the possibility of contracting the work should be explored;
2. That if the work is to be augmented on a contracting basis it would still be necessary to hire one additional city employee to do the work of posting the property, searching the records to determine ownership so that notices and bills could be mailed to the owner of record as of that date;
3. That there would be a problem of assessing this clerical cost due to the fact that many people, after receiving their notice, would decide to do the work themselves and it would be unfair to assess the entire cost of the program against those owners who did not do their own work;
4. That the staff should investigate the possibilities of contracting for the service on the basis of cleaning the lots twice a year;
5. That there were two related and yet different problems -- the cleaning of the lot and the eradication of puncture vine. Puncture vine cannot be controlled by cultivation or discing or mowing but must be sprayed and it would be possible that two types of contracting would be necessary. The delay between the time notices are sent and the work could be legally done by the code provisions would only permit these vines to become bigger and do more damage;
6. That the possibility of adding a penalty or sur-charge of some type so that it would be to the advantage of the property owner to do the work himself in order to relieve the city from creating a new type of service which would call for a sizeable budget;

MOTION

That the Council go on record as wishing to step up the program of vacant lot cleaning and the staff be directed to prepare a specific type of program which could be considered by the Council.

Moved by Merrill      Seconded by Adams      Unanimously carried  
Lowrey

Director of Parks and Recreation brought up the problem of maintenance of parking strips. The code does not provide for the city to do the work and bill the owners as is done with vacant lots. In some of the areas where it is too narrow to disc the city has occasionally mowed the parking strip. It is a problem however where the Public Works had disced a lot, after it has been posted and notice given, for the Parks Department to again contact the same property owner about cleaning the parking strip.

The City Manager stated that this problem would be worked out since the city should not be in a position of having two operations on one lot.

REPORT ON PUNCTURE VINES IN GOLF COURSE      7-52

As requested by Councilman Arata, Mr. Lowrey reported on the program for eradication of puncture vine in the development of the 18 hole golf course. He said that once the course is planted

the constant mowing would tend to eliminate it. Once the Bermuda lawn is established it would be much simpler to handle by constant mowing. A steel brush could be set ahead of the mower, if necessary, to pick the puncture vine up enough to cut it off. By mowing regularly it is cut off before the seed is set.

The City Manager read a letter from Administrator Hane of Stanislaus County advising that the Board of Supervisors planned to establish an Advisory Committee to assist in developing a program to exercise suitable controls on weeds. A meeting on this matter will be held on October 14 at 7:30 P.M. in the Board Chamber.

SCHEDULE FOR ACTION ON MCHENRY AVENUE IMPROVEMENT 7-82

A copy of a report from the City Manager, 10-1-58 on "Action and Program for Completion of McHenry Avenue Right of Way Clearance for Construction", prepared by the City Manager was read.

- "1. We have reviewed in detail with the staff of the Division of Highways the actions yet to be taken and the order in which they should be cleared.
- "2. We are clearing the matter of the relocation of utilities in the street, including those of the M.I.D., Pacific Telephone and Telegraph Company and Pacific Gas & Electric Co., City water and sewer lines to a small extent. All the utility companies are working with us to clear out their specific plans and the timing for relocation, so that this work may be accomplished in proper sequence. Some of it would be done in advance of the beginning of highway construction; some in connection with the actual construction. We are now working on plans and specifications for our part of this so that our construction can be accomplished prior to the beginning of the highway construction.
- "3. We are proceeding with the acquisition of rights of way on the basis that every possible reasonable means will be utilized to clear the dedications on a voluntary basis, under the policy established by the Council.
- "4. We need authorization from the Council for the staff to proceed with preparation and assembly of information and processing for filing condemnation proceedings, where necessary, to acquire rights of way.
- "5. A special effort is being made to time all the required actions so that the State would be in a position to call for bids by the first of the year."

MOTION

That the staff be authorized to proceed with preparation and assembly of information and processing for filing condemnation proceedings, where necessary to acquire rights of way on McHenry Avenue.

Moved by Merrill      Seconded by Robinson      Unanimously carried

Before the condemnation proceedings are finally filed, the City Manager stated, a final report will be made to the Council and a resolution will be needed on specific parcels and specific owners.

APPROVE AGREEMENT WITH STATE FOR INSTALLATION OF BACKGROUND SHIELD FOR STREET SIGNALS 7-120

The City Manager reported receipt of an agreement from the state relating to the sharing of costs with the city for the installation of background shield on street traffic signal where needed. The estimated cost to the city would be about \$500.00.

RESOLUTION NO. 58-318

A RESOLUTION APPROVING AGREEMENT WITH THE STATE OF CALIFORNIA FOR THE INSTALLATION OF BACKPLATES ON STATE HIGHWAY ROUTE 4 (X-Sta 4-Mod) AT ITS INTERSECTIONS WITH L, K, J, I AND H STREETS ON STATE HIGHWAY ROUTE 109 (X-Sta-109-Mod) AT ITS INTERSECTION WITH NEEDHAM AND MORRIS STREETS, IN THE CITY OF MODESTO

Introduced by Robinson      Seconded by Arata

Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond

Noes: None      Absent: Mayor Marks

APPROVE AGREEMENT WITH MODESTO CITY SCHOOLS FOR AFTER-SCHOOL RECREATION PROGRAM 8-1

RESOLUTION NO. 58-319

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOL DISTRICT OF STANISLAUS COUNTY FOR AFTER-SCHOOL RECREATION PROGRAM

Introduced by Merrill      Seconded by Spaulding

Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond

Noes: None      Absent: Mayor Marks

APPROVE APPROPRIATION TRANSFER OF \$770 FOR PURCHASE OF SAFETY EQUIPMENT FOR CITY MOBILE EQUIPMENT (TURN SIGNALS) 8-10

The City Manager reported that the General Safety Committee of the City had recommended that turn signals be placed on semi-trucks used for garden refuse pickup and certain other city vehicles at an estimated cost of \$770.

The Committee is also recommending that fire extinguishers be placed in certain city vehicles, depending upon the nature of the vehicle and its use, costing \$15 to \$50.

Following a general discussion, Councilman Adams asked that the appropriation for the fire extinguishers be held over so that he could check out the matter further.

RESOLUTION NO. 58-323

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$770 FROM SERVICE DIVISION APPROPRIATED RESERVE TO SERVICE DIVISION TO PURCHASE SAFETY EQUIPMENT FOR CITY MOBILE EQUIPMENT

Introduced by Spaulding      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond

Noes: None      Absent: Mayor Marks

APPROVE APPROPRIATIONS FOR CITY HALL AND PARKING GARAGE CONSTRUCTION  
8-105

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ORDINANCE NO. 263-C.S. entitled

"AN ORDINANCE APPROPRIATING ADDITIONAL RECEIVABLE TO THE SPECIAL CAPITAL OUTLAY FUND FOR CITY HALL AND PARKING GARAGE CONSTRUCTION IN THE CITY OF MODESTO"

was adopted and ordered published as provided by the Charter.

Moved by Spaulding      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None      Absent: Mayor Marks

RESOLUTION NO. 58-320

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$80,000 FROM SPECIAL CAPITAL OUTLAY RESERVE AND GARDEN REFUSE DISPOSAL TO SPECIAL CAPITAL OUTLAY CITY HALL AND PARKING GARAGE CONSTRUCTION

Introduced by Spaulding      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None      Absent: Mayor Marks

AUTHORIZE REFUND OF OVERPAYMENT OF BUSINESS LICENSE TAX TO GENE THOMAS TRAILER SALES AND TULLY LIQUOR STORE      8-115

The City Manager reported that claims had been filed with the Finance Director for refund of overpayment of business license fees by Gene Thomas Trailer Sales in the sum of \$317.13 and Tully Liquor Sales in the sum of \$149.08. Audits had been made by the Finance Department and it is recommended that the refund of Gene Thomas Trailer Sales be reduced to \$216.39 because the claim covered a period from January 1, 1956 to December 31, 1957 and the statute of limitations would allow a refund only to April 1956, but that the full claim be allowed Tully Liquor Store because local tax was paid on the sale of alcoholic beverage which is exempt from local taxation by state law.

RESOLUTION NO. 58-321

A RESOLUTION AUTHORIZING REFUND OF OVERPAYMENT OF MILL LICENSES TO THE TULLY LIQUOR STORE AND GENE THOMAS TRAILER SALES

Introduced by Spaulding      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None      Absent: Mayor Marks

REPORT ON OFFER FROM STATE ON PURCHASE OF MAZE WREN PARK      9-06

The City Manager read a letter setting forth an offer from the state to purchase Maze Wren Park for the sum of \$69,000 which is to be used in the construction of the freeway. The purchase of the property must be handled through condemnation action in order that the reversionary rights of the former owners may be cleared. The State would permit the city to use the park rent free until such time it elects to take possession under certain conditions outlined in its offer.

The City Manager believed that the offer was a fair and

adequate settlement for the city based on an appraisal and recommended its acceptance.

MOTION

That the City Manager be authorized to write a letter to the State indicating that its offer was satisfactory and asking that it proceed on this basis.

Moved by Robinson    Seconded by Spaulding    Unanimously carried

APPROVE AGREEMENT WITH FRANK FRANCEK ET UX FOR INSTALLATION OF STREET TREES IN MONTGOMERY VILLAGE SUBDIVISION NO. 2    9-42

Terms of the proposed agreement were briefly reviewed by the City Attorney which called for the planting of trees by the city in Montgomery Village Subdivision No. 2 in return for the payment by the subdivider of \$625. He reported that this payment has been received from Mr. Francek.

RESOLUTION NO. 58-322

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND FRANK FRANCEK AND MARY J. FRANCEK FOR THE INSTALLATION OF STREET TREES IN MONTGOMERY VILLAGE SUBDIVISION NO. 2

Introduced by Arata    Seconded by Robinson

Ayes: Adams, Arata, Merrill, Spaulding, Robinson, Mayor Pro Tempore Hammond  
Noes: None    Absent: Mayor Marks

REPORT ON MEETING OF PERSONNEL COMMISSION    9-47

The City Manager distributed copies of the minutes of the Personnel Commission meeting held September 30, relating to method for selection for replacement of Assistant Fire Chief to the Council members. Copy of this document was filed with the City Clerk for filing.

APPROVE ATTENDANCE OF BOTH THE CITY MANAGER AND ASSISTANT CITY MANAGER TO THE ANNUAL CONFERENCE OF THE LEAGUE OF CALIFORNIA CITIES IN LOS ANGELES OCTOBER 26-29    9-60

With the unanimous consent of the Council, Councilman Merrill was permitted to bring up a matter not on the agenda --- the report received from the City Manager regarding attendance at the League meeting in Los Angeles.

He opposed the proposal that both the City Manager and his Assistant be out of town at the same time.

Councilman Adams considered that since this happened so seldom that it would be to the city's advantage that both attend this meeting.

Councilman Arata stated he was also opposed to having them both of of the city at the same time.

Councilman Spaulding questioned whether there would be any matters which would arise during these few days which could not be handled over the telephone.

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The City Manager pointed out that never to his knowledge had there been any objections made to both of them attending the conference and it has been done as a matter of practice.

Councilman Robinson considered that this meeting would qualify as an exception, so both of them could attend.

The City Manager stated that the two meetings which both have tried to attend were the annual conference and the spring meeting of the City Managers.

MOTION

That both the City Manager and his Assistant be allowed to attend the League meeting.

Moved by Adams      Seconded by Spaulding

Mayor Pro Tempore Hammond declared that the motion carried.

REPORT ON CENTRAL BUSINESS DISTRICT STUDY 9-96

Mayor Pro Tempore Hammond reported on the meeting held on the Central Business District Study and the speech presented by Frank Cox on urban redevelopment.

He believed that Mr. Cox's speech created the kind of interest among those who attended, which would be a stepping stone to make this program a success.

The City Clerk was directed to have reproduced for distribution to the Council, copies of the first of a series of three articles by Frank Cox which had appeared in the magazine Goldsmith entitled, "Downtown-The Key to Civic Survival".

REPORT ON MEETING WITH REPRESENTATIVES OF STATE WATER POLLUTION CONTROL BOARD RE: REGULATIONS FOR FEDERAL AID ON SEWAGE DISPOSAL 9-120

The City Manager reported that after a meeting with representatives of the State Water Pollution Board in Stockton the Board staff is now proposing a basis for federal aid on sewage disposal which will allow cities credit both for bond issues and cash expenditures.

CONSOLIDATED REPORT OF RECREATIONAL ACTIVITIES IN THE COMMUNITY 10-26

Copies of the report were distributed to the members.

ADJOURNMENT

MOTION

That the meeting be adjourned.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

ATTEST:

  
City Clerk

10-1-58 Page 13

Modesto City Council  
October 8, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Hammond, Robinson, Mayor Marks

Absent: Councilmen: Arata, Merrill, Spaulding

Councilman Spaulding arrived at 7:33 P.M. and Councilman Arata at 7:37 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. B. Den Ouden gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of September 17, 24 and October 1, and the same being available for public inspection and there being no corrections or objections, the minutes were approved.

#### REPORT ON PLANS FOR AIRPORT RUNWAY DEDICATION 1-31

Harold Peterson, Industrial Development Director of the Chamber of Commerce, reported on the plans proposed for the airport runway dedication, which is tentatively set for 2:00 P.M. Thursday, October 16, 1958.

#### REPORT ON LEASING OF RIVERBANK ORDNANCE PLANT 1-40

Mr. Peterson reported that the Army Corps of Engineers has submitted detailed brochures to 800 firms around the country giving specifications on the Riverbank Ordnance Plant and specifications for a lease which will be considered on December 5. The Oakdale and Riverbank Chambers of Commerce are preparing a brochure on the community, which was not included in the Army's information, to be sent to the same firms. Mayor Marks assured Mr. Peterson that the Chamber could call on the city staff for any assistance required.

#### FINAL ADOPTION OF ORDINANCE NO. 262-C.S. ACQUIRE SITE FOR WATER PUMPING STATION AT MCHENRY VILLAGE 1-55

ORDINANCE NO. 262-C.S. entitled

"AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY FROM MCHENRY VILLAGE, INC., AS A SITE FOR A WATER PUMPING STATION IN THE CITY OF MODESTO"

introduced on October 1, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

10-8-58 Page 1

Moved by Robinson    Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None            Absent: Merrill

INVITATION FROM CITY OF STOCKTON TO ATTEND CENTRAL VALLEY DIVISION  
 LEAGUE MEETING OCTOBER 23, 1958            1-23

The letter was read and the City Clerk was directed to contact the members for reservations.

FURTHER CONSIDERATION OF REQUEST OF MODESTO MERCHANTS ASSOCIATION TO  
 OBSERVE NATIONAL DOWNTOWN WEEK OCTOBER 20 to 25 INC.    1-60

Sam Smith, Al Hamaway and Ron Monroe spoke further on behalf of the Association's request, for the closing of one city block in the downtown area during the week of October 20-25 to observe National Downtown Week. They asked that 11th Street between I and J Streets be closed as it would be the most satisfactory block from the standpoint of control of traffic. Plans for the display of cars and other merchandise and equipment, prizes to be given, decoration of the mall area and activities to be conducted were outlined by the representatives. Mr. Smith filed a petition with the City Clerk signed by property owners in the block involved "waiving any and all claims for loss or damage against the city which shall arise out of or be asserted by reason of the closing of said street".

The City Manager asked for Council direction on special policing which would be necessary; costs involved for signs detouring traffic, and moving of a number of ornamental street trees in planter boxes to be used for decoration. Special policing to regulate traffic could logically be assumed by the city, the Manager pointed out, but the cost of moving the planter boxes and painting of signs should be cleared by the Council.

A sketch displaying the proposed plan for the mall area was filed by the Association with the City Clerk.

After a general Council discussion it was agreed that the temporary closing of the street be approved on the following conditions:

- 1- Police and fire protection would be handled by the city;
- 2- Moving of the planter boxes be assumed by the Association under the direct supervision of the Director of Parks and Recreation;
- 3- That in order not to set a precedent that only city services normally provided for other special events be provided;
- 4- Any special signs required be paid by the Association but any suitable available city signs could be used without cost to the Association;
- 5- That city employees install the city's stage if it will be needed;
- 6- That the Association furnish the city with an insurance policy insuring the city against public liability in the limits of \$100/200,000 and property damage in the limit of \$5,000.

## RESOLUTION NO. 58-324

A RESOLUTION GRANTING PERMISSION TO THE MODESTO MERCHANTS ASSOCIATION DOWNTOWN DIVISION TO USE 11TH STREET BETWEEN I AND J STREETS FOR ONE WEEK IN OBSERVANCE OF NATIONAL DOWNTOWN WEEK AND AUTHORIZING THE CLOSING OF SAID STREET DURING SAID WEEK

Introduced by Hammond      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

HEARING ON PROPOSED ANNEXATION OF ZLAB SUBDIVISION NO. 2 3-97

Mayor Marks announced that the hour of 8:00 P.M., the time set for the public hearing on the proposed annexation of Zlab Subdivision No. 2 to the City of Modesto, had arrived.

The City Clerk's certification that the notice of the hearing had been published in the manner and time prescribed by law; that notices were mailed to interested parties and that no written protests had been filed, was noted by the Council.

Resolution No. 456 adopted by the Planning Commission on August 19 recommending to the Council the commencement of annexation proceedings, was noted.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No protests were filed or comments made.

Mayor Marks declared the hearing closed.

## ORDINANCE NO. 264-C.S. entitled

"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE ZLAB SUBDIVISION NO. 2 ADDITION TO THE CITY OF MODESTO"

having been heretofore introduced, was adopted and ordered printed and published as required by the Charter.

Moved by Hammond      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

GRANT REQUEST OF MODESTO RETAIL MERCHANTS ASSOCIATION FOR \$3,000 BUDGETED IN 1958-59 BUDGET 3-105

## MOTION

That the sum of \$3,000 allocated in the current budget for the Modesto Retail Merchants Association be approved for payment.

Moved by Arata      Seconded by Hammond      Unanimously carried

LETTER FROM ARCHITECT MILTON PFLUEGER RE: DIFFERENCE IN CONTRACT COSTS TO THE CITY ON CITY HALL BUILDING 3-110

Copies of this letter having previously been sent to the Council, no discussion was held. The letter was ordered filed.

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FURTHER CONSIDERATION OF APPLICATION OF MARK RANDY FOR REZONING OF  
AREA ON MCHENRY AVENUE 3-114

Pursuant to referring this matter to the Planning staff for further conferences with the property owners to work out a satisfactory arrangement for the number of streets opening onto McHenry Avenue, Russell Fey, Senior Planner displayed a sketch of the area showing three 30 ft. openings which had been agreed upon by the owners, one at each end and one in the middle of the 600 ft. frontage.

The owners have agreed to dedicate a 25 ft. right of way for the development of McHenry Avenue; grant a 3 ft. easement and develop a 30 ft. frontage road for the entire length of the property, Mr. Fey reported.

Two openings vs three openings onto McHenry Avenue was discussed generally.

The City Manager pointed out that two openings might be better from the standpoint of traffic control for cars entering McHenry Avenue but three openings would assure access to all properties. He considered that the plan now offered by the owners was a satisfactory solution to a very difficult problem. He recommended approval of the plan presented providing for the three openings on the basis that the owners had gone as far as possible to help the city resolve a rough problem and still protect their own interest.

Mark Randy filed a statement signed by the property owners but the City Attorney pointed out that it did not relate to the opening on the street. He recommended that a document be prepared for execution by the owners referring to a specific drawing.

MOTION

That the staff work with the parties concerned and prepare the necessary documents for Council approval.

Moved by Mayor Marks Seconded by Hammond Unanimously carried

Chester A. Barham, one of the property owners, asked the Council to keep in mind the fact that the owners had dedicated rights of way and agreed to improve a frontage road and use this as a pattern for similar requests for development of properties along McHenry Avenue.

CLEAR MATTERS RELATING TO CITIZENS SEMINAR 4-120

Mayor Marks reported that in order for the children in the public schools to take a copy of the notice of the Citizens' Seminar home to their parents it would be necessary for the Council to so request.

MOTION

That the Schools be asked to permit the school children to take a notice of the Citizens' Seminar home to their parents on the basis that freedom and responsibility go hand in hand in the American way of life.

Moved by Hammond Seconded by Arata Unanimously carried

10-8-58 Page 4

The City Manager noted that a copy of the notice and a report on the Seminar had been sent to each member.

CLEAR PROPOSAL FOR CLERK OF THE WORK FOR NEW CITY HALL CONSTRUCTION  
5-10

The City Manager reported that four applicants for the job had been interviewed. Henry Beck, Construction Superintendent, a present city employee, is recommended for the position. The Architect has also approved Mr. Beck and a salary of \$600 per month is proposed.

MOTION

That the staff be authorized to proceed on this basis.

Moved by Hammond Seconded by Arata Unanimously carried

FURTHER REPORT ON CLEANING OF VACANT LOTS 5-29

Pursuant to Council direction that a further report be made by the staff on a definite program for a more intensive maintenance of vacant lots by the property owners involved, Director of Public Works Ray reported that at least three firms are interested in providing services for weed control on a contractual basis. It would not be necessary to enter into a formal contract with these firms but the work could be handled by a purchase order procedure, after posting of the premises by the Public Works Department. The owners would first have an opportunity to secure these firms or others voluntarily to perform the work upon their property. If done under city order it would be paid by the city and then the owners would be billed, including the additional costs involved from posting, check of owners, etc.

The City Manager pointed out that a sur-charge as recommended by Councilman Robinson, could not legally be made. The law provides that the city's costs only, could be charged to those owners where the city does the work, and not to those who do the work themselves or hire the work done after the lot was posted by the City.

Mayor Marks expressed approval of an expanded program but pointed out that the Council could expect an increased budget to cover it.

Mr. Ray stated that the same procedure would apply to puncture vine control. He pointed out that the hiring of one additional man on a seasonal basis would be necessary. He could also work part time on checking of water wastage. He stated that each lot would have to be considered individually as to the number of times it would be necessary to have it cleaned because they vary as to conditions. He suggested that the Department determine when the properties are to be posted and cleaned, as there were so many variables involved. The Department had already started posting some premises since the Council meeting of last week. While additional personnel is not necessary at this time, it will be necessary to hire additional help during the summer season. He asked that this fact be kept in mind in budget considerations.

MOTION

That the program, as outlined by the Director of Public Works be approved and the staff be authorized to proceed  
10-8-58 Page 5

on this basis.

Moved by Arata      Seconded by Adams      Unanimously carried

CLEAR ATTENDANCE OF CITY MANAGER AT AMERICAN MUNICIPAL ASSOCIATION MEETING AND CONTINUATION OF WORK WITH FIRE GRADING COMMITTEES 6-31

The City Manager read a report on "Work program of the American Municipal Association Committee on Fire Grading and Rating", a copy of which is included in the records of this meeting.

The City Manager stated that the Council had authorized him to work on the National and State Committees for this year and asked for guidance whether he should continue with any of the work during the next calendar year. He pointed out that the city received benefit but it does take time to serve on the committees.

Councilman Arata considered that the City Manager should continue on the committees to know how to guard the city's No. 2 fire rating and assure a savings to the citizens in insurance costs.

Councilman Adams considered that nothing should be done which would jeopardize the city's position and the work of fire grading and rating should be continued.

MOTION

That the Council authorize the continuation of the City Manager's work on the Fire Grading and Rating committees and his attendance at the necessary meetings in connection with the work.

Moved by Arata      Seconded by Adams      Unanimously carried

APPROVE APPROPRIATION TRANSFER FOR PURCHASE OF FIRE EXTINGUISHERS 6-75

Councilman Adams reported on his investigations on the various types of fire extinguishers and recommended the purchase of the types suggested by Fire Chief Wemyss for the city automotive equipment.

RESOLUTION NO. 58-325

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$2,225 FROM GENERAL FUND TO PUBLIC WORKS, SERVICE DIVISION FOR PURCHASE OF SPECIAL SAFETY EQUIPMENT FOR CITY MOBILE EQUIPMENT

Introduced by Spaulding      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Merrill

APPROVE REFERRAL OF ANNEXATION PETITIONS TO MODESTO CITY PLANNING COMMISSION FOR INVESTIGATION AND REPORT 6-105

RESOLUTION NO. 58-326

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS WESTAIRE ACRES ADDITION

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Introduced by Mayor Marks      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

## RESOLUTION NO. 58-327

A RESOLUTION REFERRING TO THE MODESTO CITY PLANNING COMMISSION A PETITION FOR ANNEXATION OF CERTAIN UNINHABITED TERRITORY TO THE CITY OF MODESTO, KNOWN AS THE SCHERER ADDITION

Introduced by Adams      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

The City Manager stated that a report would be submitted to the Council at a later date on the manpower and other related problems involved in annexation of new areas to the city.

ACCEPT IMPROVEMENT OF LALOMA AVENUE BETWEEN SANTA ROSA AND YOSEMITE BOULEVARD FROM STANDARD MATERIALS INC.; AUTHORIZE PAYMENTS DUE AND RECORDATION OF NOTICE OF COMPLETION 6-125

## RESOLUTION NO. 58-328

A RESOLUTION ACCEPTING THE CONSTRUCTION OF IMPROVEMENT OF LALOMA AVENUE BETWEEN NORTH SANTA ROSA AVENUE AND YOSEMITE BOULEVARD; AUTHORIZING PAYMENT OF AMOUNTS DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

AUTHORIZE RELEASE OF CASH DEPOSITS POSTED FOR ZLAB SUBDIVISION NO. 1 ALLEY AND LUNDQUIST SUBDIVISION ALLEY IMPROVEMENT 7-1

The City Manager reported that the improvements on the alleys in Zlab Subdivision No. 1 and Lundquist Subdivision had been completed by the subdividers, Joe A. Zlab and Anthony Lundquist and Phil Humphreys and it would be in order to return the cash deposits filed with the city to guarantee the improvements.

## RESOLUTION NO. 58-329

A RESOLUTION AUTHORIZING THE RELEASE OF CASH DEPOSIT FILED BY JOE A. ZLAB TO GUARANTEE SUBDIVISION IMPROVEMENTS IN THE ZLAB SUBDIVISION NO. 1 IN THE CITY OF MODESTO

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

## RESOLUTION NO. 58-330

A RESOLUTION AUTHORIZING THE RELEASE OF CASH DEPOSITS FILED BY ANTHONY LUNDQUIST AND PHIL HUMPHREYS TO GUARANTEE SUBDIVISION IMPROVEMENTS IN THE LUNDQUIST SUBDIVISION

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

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REPORT ON REQUEST FOR ASSISTANCE ON STORM DRAINAGE IN NORTHGATE  
SUBDIVISION 7-05

Director of Public Works Ray reported receipt of a letter from Giddings Bros., developers of Northgate Subdivision, requesting city assistance in handling storm drainage in this area. They offered to provide for a limited time, an area of approximately 2 to 4 acres north of the Cavil drain to be used as a holding basin for storing waters which would accumulate in this subdivision and requested that the city provide temporary sumps and pumping facilities to pump storm water into the holding basin. They requested an early decision due to the approaching winter season.

Mr. Ray pointed out that this proposal by the subdivider was made in order to handle the storm drainage until the McHenry Avenue storm drain trunk line was completed and an improvement district could be formed in the area north of M.I.D. lateral No. 3. This holding basis may be needed for possibly two years. The drainage situation is extremely serious since the Cavil drain is located in this area, denoting a low area and the whole area from Briggsmore Avenue north drains into this particular section with the exception of the water which goes into the city's dry wells and sanitary sewers.

Mr. Ray reported that the city now owned two electric pumps which could be used for pumping the water in order to free the city's portable equipment for other areas throughout the city. He pointed out that the city's initial installation cost would be approximately \$1100. He stated that the principal cost would be for electrical service and it was possible the District might agree to share in the cost of \$250 to some extent. He recommended that the offer of Gidding Bros. be accepted for the following reasons:

- 1- A greater area than the Northgate Subdivision drains into this subdivision;
- 2- Street maintenance costs will be reduced materially;
- 3- The sanitary sewer system will be relieved of an overload;
- 4- Emergency pumping time would be eliminated at these two locations.

He considered that if the Council agreed with his recommendation that an agreement should be prepared and executed by the Subdivider and approved by the Council.

MOTION

That the staff be authorized to work out the details of the plan and bring back the necessary documents for Council approval.

Moved by Robinson      Seconded by Spaulding      Unanimously carried

APPROVE AGREEMENTS FOR APPRAISAL SERVICES IN CONNECTION WITH MCHENRY  
AVENUE RIGHT OF WAY ACQUISITIONS 7-110

RESOLUTION NO. 58-331

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND  
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ROBERT W. FORD FOR SERVICES AS APPRAISER FOR MCHENRY AVENUE RIGHT OF WAY ACQUISITIONS

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

RESOLUTION NO. 58-332

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND WILLIAM H. MURRAY FOR SERVICES AS APPRAISER FOR MCHENRY AVENUE RIGHT OF WAY ACQUISITIONS

Introduced by Spaulding      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: Merrill

Councilman Arata left the meeting at 9:10 P.M.

CONSIDER ACTION BY THE COUNCIL ON MAINTENANCE OF STATE HOSPITAL 7-105

Mayor Marks reported that he had been advised by Assemblyman Ralph M. Brown that there was a state law providing that a state hospital should be maintained in Modesto. Unless this is repealed there will be one here. He suggested that the Council work with Assemblyman Brown on a basis that the state be notified that the city will diligently cooperate with the state to keep a hospital here as it is right and necessary to the area and records indicate that the rehabilitation of patients in this area is good.

MOTION

That the staff prepare and present for Council action a resolution along these lines.

Moved by Mayor Marks      Seconded by Robinson      Unanimously carried

CONSIDER ELIMINATION OF VALLEY CROSS DRAIN AT INTERSECTION OF FORDHAM AND AMHERST AVENUES 7-117

The Director of Public Works reported that the valley cross drain which had been installed of road mix materials by the developers of Campus Tracts #2 and #4 at the intersection of Fordham and Amherst Avenues, represented a maintenance problem and permitted drainage to drain across the street and flow north to the intersection of Amherst and Purdue Avenues. He recommended the removal of the cross drain by filling in the street to a normal crowned intersection for the following reasons:

- 1- Reduce street maintenance at this point;
- 2- Reduce the amount of drainage flow to the Amherst-Purdue intersection;
- 3- Provide a better intersection for vehicular traffic by removing the dip. Objections may come from the residents located at the southwest corner of the intersection of Amherst and Fordham since it can be assumed that water will collect at that point to some extent even though a dry well is provided there.

## MOTION

That the staff be authorized to proceed as recommended by the Director of Public Works.

Moved by Spaulding Seconded by Robinson Unanimously carried

REPORT ON "FIRST YEAR REPORT ON MODESTO'S ONE-WAY STREETS" 8-20

Copies of this report prepared by the Director of Parking and Traffic were distributed to the Council members and a copy filed with the City Clerk.

Mayor Marks asked that if any of the members wished to raise any questions about the report that they contact the City Clerk and ask that it be placed back on the agenda.

ACCEPT RENEWAL OF COMPREHENSIVE LIABILITY AUTOMOBILE POLICY 8-45

A report on the premiums paid for the city's comprehensive liability automobile policy for the past years was given by the City Manager. The total advance premium for the year 10-13-58 to 10-13-59 is \$7,079.05 allowing a 25% experience credit rating. He recommended that the policy from the Reliance Insurance Company be accepted and payment be authorized.

RESOLUTION NO. 58-333

A RESOLUTION APPROVING RENEWAL OF COMPREHENSIVE AUTOMOBILE POLICY

Introduced by Robinson Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Robinson, Spaulding, Mayor Marks  
 Noes: None Absent: Merrill

PRESENTATION OF REPORT OF THE FIXED ASSETS OF THE CITY AS OF JUNE 30, 1958 8-60

The report was displayed by the City Clerk and it was ordered filed by the Council.

FILING OF FINANCIAL STATEMENT FOR MONTH OF SEPTEMBER, 1958

The City Manager distributed copies of this report to the Council members.

ADJOURNMENT

MOTION

That the meeting now in session be adjourned.

Moved by Arata Seconded by Spaulding Unanimously carried

ATTEST:

  
 CITY CLERK

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**Page 186-30 Not Used**

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Robinson, Mayor Marks

Absent: Councilmen: Hammond, Merrill, Spaulding

Councilmen Merrill and Hammond arrived at 4:05 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Larry Cruzen gave the invocation.

LETTER FROM SOROPTIMIST CLUB RE: SENIOR CITIZENS' CENTER 1-16

A letter from the Soroptimist Club was read notifying the Council that the Club would continue with its plan for the building of a Senior Citizens Center although the Women's Improvement Club had withdrawn from any active part in the program.

City Manager Ross Miller asked for Council instruction on the previous direction for the staff to work with the two organizations to define and clarify the matters raised by the Council on the project, since one of the sponsoring groups had withdrawn.

Councilman Merrill asked that the status of the offer of concrete blocks by Pete Janopaul be cleared.

MOTION

That the staff be authorized to work out the specifics with the Soroptimist Club and present them to the Council before any contract is executed.

Moved by Adams    Seconded by Arata    Unanimously carried

FURTHER CONSIDERATION OF REQUEST OF EVERETT TURNER FOR VARIANCE FROM CODE PROVISIONS FOR CONSTRUCTION OF BRICKWORK 1-62

A letter from Everett W. Turner, Brady and Fairmont Avenues, was read requesting a variance from Code Section 7-1.203(c) to permit the brickwork installed without a permit to remain.

Mr. Turner reported that this landscape architect had advised that in attempting to build a grade which would conform with the level of the street would cost several thousand dollars, as all the shrubbery and landscaping would have to be removed from the front of his house. He asked that the variance be made on a temporary basis until such time as storm drains will be available.

The City Manager reported that he had suggested to Mr. Turner, 1) that he comply with the action of the Council and take out the brickwork; 2) that at the two different points of access to the house, if the Council so authorizes, the brickwork could remain.

Councilman Arata recommended that a revocable type of variance be approved.

Councilman Robinson considered that since the problem was brought on by progressive improvement of the street and Mr. Turner was the recipient of rain water in excess of that which drained from his own property, that the city has some responsibility in the matter. In view of the fact that a satisfactory solution would be available shortly when the McHenry Avenue widening project was completed, he concurred in the granting of a revocable variance as requested.

Mayor Marks considered that conditions had not changed from the first time the matter was considered by the Council. He questioned if the Council should place itself, as a policy setting body, in a position where it would be encouraging people to knowingly go against the laws of the city and then ask for permission to do it later.

Councilman Hammond reviewed the position he had taken at the previous Council meeting when the matter had been up for discussion. He considered that all requests for variances which related to correction of a water condition should be treated on the same basis. Variances should not be granted for one on the basis of ignorance of the law, and denied for another on the basis of wilful intent. The Council must judge each variance on its own merits. If this variance is granted it should be on the precise understanding that the brickwork is to be removed when drainage is available.

Councilman Adams questioned since the brick material would constitute a hazard and if a variance was granted, the Council would be condoning a hazard.

Provisions of the Resolution adopted by the Council setting forth conditions under which the Council would grant a variance was reviewed by the City Attorney.

Mayor Marks raised the problem of what the staff could tell the persons who requested permission to do work which did not meet the code regulations and when refused a permit proceeded to do the work anyway.

Councilman Hammond considered that this could not be placed in any different category than ignorance of the law.

The City Manager stated that if this position was taken it would mean that the people would be smart not to find out what the law is but proceed to do as they wished and then try to get approval.

Councilman Arata pointed out that Mr. Turner had expended a large sum of money for the work and the request was of a temporary nature since the storm drainage facility would be available soon. He considered that other persons would not be willing to spend large sums of money for temporary improvements so this would not present a precedent for future cases.

Councilman Hammond considered that the variance on this case could be granted only on the basis of a water condition existing. Similar cases throughout the city could also be considered. Beautifying the premises is not a basis for a variance.

The City Manager pointed out that the Council's policy setting resolution did not provide specifically for the granting of variances on the basis of drainage conditions. If variances are to be tied only to drainage the resolution should be redrafted.

The Council considered that the policy resolution should not be changed.

Terms of a resolution which would approve the variance request were considered by the Council as follows:

- 1- That a variance be granted to the applicant from the provisions of Sec. 7-1.203(c) of the Municipal Code to allow the bricks constructed in the public right of way on Carolyn, Fairmont and Brady Avenues to remain there on a temporary basis until such time as the storm sewer facility is available to serve the property at which time the bricks are to be removed.
- 2- That the applicant post a cash deposit or a corporate surety bond with the city in the amount of \$500 to guarantee the removal of the bricks when the storm sewer is available.
- 3- That the applicant shall as a condition of having the permit granted to him agree to carry insurance coverage to hold the city harmless from and against all costs, damages and liability arising from the maintenance of the bricks in the area.

The City Manager asked if it was clear to the Council that the granting of this variance, as proposed, does not comply with the resolution of policy previously adopted and that this was the first time the Council had formally approved a variance where conditions were reported to be hazardous.

RESOLUTION NO. 58-334

A RESOLUTION GRANTING A VARIANCE TO EVERETT W. TURNER TO PERMIT BRICKWORK CONSTRUCTED ON BRADY, FAIRMONT AND CAROLYN AVENUES TO REMAIN UNDER CERTAIN CONDITIONS

Introduced by Arata      Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson  
Noes: Adams, Mayor Marks      Absent: Spaulding

GRANT PERMIT TO STAN LOEB FOR USE OF SIDEWALKS FOR SURVEY PURPOSES 3-26

Stan Loeb filed a request to use the city sidewalks to conduct a survey relating to the number of people which pass a certain area during the day. A chair would be placed on the sidewalk, either near the curb or against the wall of a building and would in no way obstruct the passage of pedestrian traffic. Three persons placed in different areas would be hired to do the work on one day.

## MOTION

That the request be granted to Stan Loeb to conduct a pedestrian survey on one day with three persons at different locations.

Moved by Arata      Seconded by Robinson Unanimously carried

LETTER FROM GRISWOLD & WIGHT RE: RENTAL OF TENTH STREET PARKING LOT 3-55

A letter from Griswold & Wight was read requesting permission to rent the City's parking lot on Tenth Street between K and L Streets for two days, October 17 and 18 in connection with its public announcement of the 1959 Ford line of cars, in order to accommodate its visitors with parking space adjacent to its showroom.

Conditions agreed upon by the Council for the rental of the property were as follows:

- 1- That the lot be kept open and available for use by the public generally;
- 2- That no change be made to the public for parking;
- 3- That Resolution No. 58-127 establishing rates and time limits for the Tenth Street lot be suspended in so far as it applies to the Tenth Street lot during the period of October 17 and 18;
- 4- That the sum of \$30 per day be charged as rental and payment is to be made in advance of the use of the lot.

## RESOLUTION NO. 58-335

A RESOLUTION AUTHORIZING GRISWOLD & WIGHT TO USE THE TENTH STREET PARKING LOT ON OCTOBER 17 AND 18, 1958, FOR FREE PARKING DURING THE INTRODUCTION OF THE NEW 1959 FORD CARS

Introduced by Robinson      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                      Absent: Spaulding

ORDINANCE APPROVING ZONE CHANGE ON MCHENRY AVENUE-SECTION 16 OF ZONING MAP (MARK RANDY) 3-120

Director of Planning Smeath advised that a letter signed by the four property owners involved in the rezoning application, Richard C. Barham, et ux; Chester A. Barham, et ux; G. C. York, et ux; and Mark Randy, et ux, was on file agreeing to:

- 1- Dedicate to the City the additional land needed to increase the width on the east side of McHenry Avenue, fifty feet, making possible a street 100 feet wide;
- 2- Dedicate to the city a three foot planting easement adjacent to the new street line;
- 3- Install curbs and gutters along McHenry Avenue in accordance with standard specifications of the city following the cross sectional design of McHenry Avenue;

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- 4- Limit access to McHenry Avenue from their respective properties to three openings of thirty feet each as shown on attached plan;
- 5- Dedicate thirty feet adjacent to the three foot planting easement for a private road to provide access to all of the properties.

RESOLUTION NO. 58-340

A RESOLUTION ACCEPTING THE OFFER OF MCHENRY AVENUE OWNERS OUTLINED IN LETTER TO COUNCIL OF OCTOBER 15, 1958, AND ATTACHED MAP ENTITLED "STUDY OF FRONTAGE ROAD FOR COMMERCIAL AREAS FRONTING ALONG MCHENRY AVENUE" DATED OCTOBER 8, 1958; AND AUTHORIZING RECORDATION WITH THE COUNTY RECORDER

Introduced by Arata      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Spaulding

ORDINANCE NO. 266-C.S. entitled

"AN ORDINANCE AMENDING SECTION 16 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON (MARK RANDY)"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Spaulding

PRESENTATION OF TRAFFIC ENGINEER'S AWARD 4-21

The 1957 Certificate of Recognition from the Institute of Traffic Engineers presented to Modesto, for "maintaining a high level of performance in traffic engineering as reported to the annual inventory of traffic safety activities" was noted by the Council.

Mayor Marks commended Traffic Engineer Carmody on receiving the award.

Mr. Carmody pointed out that much of the credit for the award was due the Council in providing the leadership and money, and to the City Manager and city employees.

FILE FOUR YEAR REPORT ON TRAFFIC CONTROL 4-35

Copies of a report prepared by the Department of Parking and Traffic, entitled "4 YEAR PROGRESS REPORT 1954-1958", were distributed to the Council members.

AUTHORIZE TWO HOUR PARKING METER ZONE ON I STREET BETWEEN 13-14 STREETS 4-40

RESOLUTION NO. 58-336

A RESOLUTION ESTABLISHING A TWO HOUR PARKING METER ZONE ON EYE STREET BETWEEN THIRTEENTH AND FOURTEENTH STREETS IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                  Absent: Spaulding

REPORT ON NO-PARKING ZONES AT INTERSECTIONS 4-50

The City Manager noted that a copy of the report "No-Parking Zones at Intersection" dated August 13, 1958, had been distributed to the Council previously. He pointed out that while the placing of such zones administratively was permitted under the traffic ordinance, the staff wished Council guidance since this was a new field as far as administrative action was concerned.

Mr. Carmody pointed out that different specific locations had previously been presented by the staff and discussed by the Council. He considered that there was a potential pedestrian danger involved on the left side of one-way streets due to sight limitation from parked vehicles. This would involve about 32 spaces, as a minimum; in the downtown area, if generally applied, it would amount to about 65 spaces.

Mayor Marks asked if Mr. Carmody considered from a traffic engineering standpoint, reconciling the ideal with the practical, that this would be essential in this community. Mr. Carmody replied that the old traffic ordinance authorized a parking zone adjacent to every cross walk in the city. It is an accepted practice throughout California cities. He recommended it both from the pedestrian point of view and cross street traffic.

Police Chief Bowers stated that two problems were involved, 1) traffic flow, and 2) safety of the pedestrian. At some high volume intersections, such as 11th and J Street where there is high vehicle and pedestrian volume, cars parked directly next to a pedestrian zone present quite a hazard to the motorist in getting around and watching pedestrians. As a result the motorist slows down and "oozes" around the corner, holding up traffic unnecessarily. There are about 20 critical intersections in the downtown area which need this kind of treatment. The walk-wait signals do not provide this during the complete green phase of the traffic signal. When cars are parked directly against the cross walk the site distance is limited. This is recommended now as a safety precaution. He stated that it was not being recommended as a general program throughout the city but only at certain intersections.

The City Manager stated that the staff would supply the Council with copies of a map showing the exact location of the critical intersections for their study and consideration at a later date.

DENY REQUEST OF FLODEN-BUTTON COMPANY FOR WAIVER OF PENALTY CHARGE ON BUSINESS LICENSE REGISTRATION FEE 5-35

Director of Finance Bird reported receipt of a request from Floden-Button Company for the waiving of the penalty charge of \$8.63 due to its failure to pay the business license registration fee before the delinquent date of July 31, 1958. The Company based its claim on failure to receive notice of license due.

RESOLUTION NO. 58-337

A RESOLUTION DENYING REQUEST OF FLODEN-BUTTON COMPANY FOR WAIVER OF  
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**PENALTY CHARGE ON BUSINESS LICENSE REGISTRATION FEE**

Introduced by Mayor Marks      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                              Absent: Spaulding

**REQUEST OF LEAGUE OF WOMEN VOTERS TO MOVE OFFICE IN MODESTO COMMUNITY CENTER TO NEW LOCATION IN BUILDING 5-59**

A report on the request prepared by Director of Parks and Recreation Lloyd Lowrey was noted. He recommended approval of the request at the same rental rate of \$20 monthly since the re-assignment of the small downstairs room would permit the Boy Scouts to enlarge their quarters on the second floor to include the League's room with increased revenue to the city. He also pointed out that it would be difficult to rent the small first story room.

**MOTION**

That the staff be directed to prepare the necessary amendment to the League's present lease as recommended by the Director of Parks and Recreation, for Council approval.

Moved by Arata      Seconded by Robinson      Unanimously carried

Mrs. Dorothy Murray spoke on behalf of the League's request.

**APPROVE SECOND AMENDMENT TO AGREEMENT WITH STATE DIVISION OF HIGHWAYS FOR MAINTENANCE OF STATE HIGHWAY ROUTES IN THE CITY 5-120**

Terms of the proposed amendment No. 2 agreement were reviewed by Director of Public Works Ray.

**RESOLUTION NO. 58-338****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING AMENDMENT NUMBER TWO TO AGREEMENT FOR MAINTENANCE OF STATE HIGHWAYS IN THE CITY OF MODESTO**

Introduced by Robinson      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                              Absent: Spaulding

**STAFF AUTHORIZED TO PREPARE NECESSARY DOCUMENTS IN CONNECTION WITH CONDEMNATION PROCEEDINGS TO ACQUIRE PROPERTY FOR INSTALLATION OF TRAFFIC SIGNALS ON YOSEMITE AND LA LOMA AVENUE 6-30****MOTION**

That the staff be authorized to prepare the necessary documents in connection with condemnation proceedings for acquisition of property needed for installation of traffic signals on Yosemite and LaLoma Avenue.

Introduced by Hammond      Seconded by Adams      Unanimously carried

REPORT ON INSTALLATION OF GUARD RAIL ON NEECE DRIVE 6-35

The City Manager reported that the proposed guard rail had been installed on Neece Drive.

REPORT ON ORANGEBURG CROSSING OF TIDEWATER SOUTHERN TRACTS 6-41

The City Manager reported that the widening of Orangeburg Avenue at the Tidewater Southern Railroad tracks had been approved by the Public Utilities Commission on the basis that the regular railroad crossing warning signs would be installed and the city was proceeding on that basis.

However, some discussions have been held with the P.U.C. on the possible installation of wig-wag signals. The railroads generally take the position that the widening of a crossing increases the city's responsibility for the payment for crossing protection.

A formal recommendation has now been received from the P.U.C. for the installation of flashing lights at this intersection. This would cost approximately \$12,000 which should be shared equally by the city and the Railroad Company, with one-half of the city's cost coming from state funds available, making the final cost to the City of \$3,000. The Tidewater Southern Railroad Company has indicated approval of the installation if the city pays the full cost. He reported on the accident record which had been used by the P.U.C. as its basis for the recommendation.

Mr. Carmody reported that the recommendation was a P.U.C. staff recommendation to the Public Utilities Commission. The Commission finally has the authority to require installation and to allocate the costs to the different beneficiaries, but has not yet so ordered. He recommended that the Council notify the Commission that the city would be willing to proceed with the signals on the basis of sharing the costs as with other grade crossing protection on existing grade crossings not modified.

The City Manager reported that the staff had weighed the advantages of this installation with other traffic problems, i. e. the bridge at Virginia Avenue & Morris Avenue. The staff will propose at a later meeting, a minimum treatment of this intersection.

## MOTION

That the staff be directed to advise the Public Utilities Commission that the city would be willing to proceed with the installation of the flashing signals on Orangeburg Avenue, the cost to be shared equally by the city and the railroad.

Moved by Hammond      Seconded by Arata      Unanimously carried

LETTER OF APPRECIATION FROM THE MODESTO RETAIL MERCHANTS ASSOCIATION-DOWNTOWN SECTION 6-120

A letter of appreciation for the Council's cooperation with the Association for the National Downtown Week observance was read and ordered filed.

AMEND MUNICIPAL CODE RELATING TO AMUSEMENT DEVICES (KIDDIE RIDES)  
3-105

As directed by the Council, the City Attorney presented for Council consideration an ordinance which would add a section to the code to provide that the Article relating to amusement devices shall not apply to any amusement devices especially designed and operated solely for the amusement of children. These devices would then be licensed under the general business license regulations.

ORDINANCE NO. 265-C.S. entitled

"AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER 1 OF TITLE IV OF THE MODESTO MUNICIPAL CODE BY ADDING SECTION 4-1.04.1 THERETO RELATING TO AMUSEMENT DEVICES"

was introduced and ordered printed as provided by the Charter.

Moved by Robinson      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Spaulding

APPROVE APPROPRIATION TRANSFER FOR MODESTO MERCHANTS ASSOCIATION  
CHRISTMAS STREET DECORATIONS 7-03

RESOLUTION NO. 58-339

A RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$5,225 FROM GENERAL RESERVE FOR CHRISTMAS STREET DECORATIONS FOR MODESTO RETAIL MERCHANTS, DOWNTOWN DIVISION

Introduced by Adams      Seconded by Mayor Marks  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None                  Absent: Spaulding

ADJOURNMENT

MOTION

That this meeting now in session be adjourned.

Moved by Adams      Seconded by Robinson      Unanimously carried

ATTEST:   
City Clerk

Modesto City Council  
October 22, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Merrill, Robinson, Mayor Marks

Absent: Councilmen: Adams, Spaulding

Councilman Adams arrived at 7:36 P.M. and Councilman Spaulding at 7:38 P.M.

COPY OF LETTER SENT TO MODESTO BEE BY HARRY M. PIERCE RE: APPLICATION FOR REZONING OF QUARESMA PROPERTY AT ROSEBURG & TULLY 1-12

The letter was read by Mayor Marks and ordered filed. Mr. Pierce objected to the rezoning of the property for commercial purposes, as requested by John Quaresma.

LETTER FROM FRANK ANDREWS RE: REPORT AND APPEARANCE BEFORE MODESTO IRRIGATION DISTRICT BOARD OF DIRECTORS 1-42

Copies of this letter having been previously sent to the Council members, no action was taken, and the letter was ordered filed.

LETTER FROM SOROPTIMIST CLUB RE: SENIOR CITIZENS' CENTER BUILDING 1-46

The letter from Soroptimist Club was read asking that the Council consider changing the proposed location of the Senior Citizens' Center building from Enslen Park to the park property purchased by the city from the Moose Lodge located on Harriett Street at Downey Avenue adjacent to Beard Brook. The Club considered that there would be more room for expansion and less probability of objections to its use for this purpose. They asked that the city assist in the installation of the necessary utilities to this property. Attached to the letter was a statement of some of the details of the club's proposals, copies of which had previously been distributed to the Council members.

Several Council members expressed approval of the selection of the new site, as being the logical and proper site rather than Enslen Park. Mayor Marks assured the Club of the Council's wholehearted cooperation in the project.

Mrs. Mosie Hamaway and Mrs. Alta Coffee, members of the Club, spoke in support of the change of location and city participation in the installation of the necessary utilities to this property.

RESOLUTION NO. 58-341

A RESOLUTION RESCINDING RESOLUTION NO. 58-209 ENTITLED, "A RESOLUTION DESIGNATING ENSLEN PARK AS A SITE FOR THE SENIOR CITIZENS' CENTER LOCATION IN THE PARK, CONSTRUCTION, COMPLETION OF BUILDING, LANDSCAPING AND OTHER RELATED MATTERS", ADOPTED BY THE COUNCIL ON JULY 2, 1958

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Introduced by Mayor Marks      Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

MOTION

That the staff be directed to take into account the club's new proposal in its report to the Council.

Moved by Robinson      Seconded by Arata      Unanimously carried

Councilman Hammond questioned if it would be possible for the staff, in preparing its report, to include the pros and cons of using the Maddux Youth Center for the Senior Citizens' Center.

The City Manager pointed out that the Youth Center program called for the use of the Center most of the time. He reported that the Council members were being sent a schedule of Youth Center's activities.

MOTION

That the Council go on record as indicating it favors the new site proposed by the Soroptimist Club subject to further study and report by the staff.

Moved by Arata      Seconded by Merrill      Unanimously carried

Howard Davenport, member of the Senior Citizens' Club gave a brief report on the scope of the proposed program to be conducted at the Center.

LETTER FROM MODESTO CITY SCHOOLS RE: AFTER-SCHOOL PROGRAM 2-67

The letter was read and ordered filed. Superintendent of Schools James H. Corson commended the city recreation staff, particularly Mary Grogan, for their efforts in conducting the program.

LETTERS FROM DIVISION OF HIGHWAYS RE: FREEWAY NETWORK 2-75

The letters from G. T. McCoy, State Highway Engineer, and J. G. Meyer, District Engineer, acknowledging receipt of letters and report from the City of Modesto regarding construction of freeways, were read and ordered filed.

Councilman Arata stated that "the state is just stalling".

The City Manager stated the state was trying to find the means of resolving the highway problems in the Modesto area.

SUGGESTION AWARD TO CITY EMPLOYEES 2-90

Mayor Marks presented awards to the following city personnel for their suggestions:

- 1- LaVerne Eilerts, Public Works Department, honorable mention for suggestion a means by which members of a department might keep other members of the staff informed of their whereabouts when out of the office.

- 2- Mary Jo Bowman of the Personnel Office, certificate of commendation for a suggestion to simplify fastening of files in folders.
- 3- Nancy Kelly, Public Works Department, \$10 award for a suggested form and procedure for employees to notify the city of their changes of address and phone number.
- 4- John L. Small of Public Works, Streets Division, \$10 award for a suggestion on closer coordination of street and tree trimming work.
- 5- Joseph R. Davis of Public Works Electrical Division, \$20 award for a suggestion that concrete bins be provided for more efficient storage and use of sand, gravel, and mixes at the 10th and D Street barn.
- 6- John L. Small, \$20-sweepstakes winner, for a suggestion that storage facilities for a change of clothing be provided at the corporation yard for city employees who work outdoors in inclement weather.

Assistant City Manager Masonehimer reported on the method used for the selection of suggestions.

MOTION

That the suggestion plan be continued for the fiscal year 1958-59.

Moved by Robinson      Seconded by Adams      Unanimously carried

APPROVE PLANS AND SPECIFICATIONS AND CALL FOR BIDS FOR SIDEWALKS IN WHITMORE PARK 3-39

RESOLUTION NO. 58-342

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF CONCRETE SIDEWALKS IN WHITMORE PARK

Introduced by Spaulding      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None      Absent: None

The time set for the opening of the bids was 2:00 P.M., November 3, 1958, in the City Clerk's office.

DISCUSSION ON USE OF CITY BUILDING BY COUNTY FOR MUNICIPAL COURTS 3-39

Bob Adams, member of the County Board of Supervisors, appeared before the Council to discuss the problems involved in the moving of the Municipal Courts from the old M.I.D. building prior to the completion of the County building. He reported that the city's position had been outlined to the Board and in order not to delay the city's building program for its city hall and parking garage, it had agreed to move the courts as soon as possible. Citizens and lawyers who go to these courts each day would be inconvenienced as well as the city and county in transporting prisoners out to the County Center No. 3 where it is suggested that the courts be temporarily housed. He stated that the Board had withheld final action until citizens in the area would have the opportunity to know of the proposal to move the courts and could submit further suggestions which could be considered by the Board.

Mr. Adams pointed out that he had now learned that the city had awarded the bids providing for an alternative which would permit the continued use of the building. He suggested that the city and county get together with all the facts and decide whether the courts are to remain or be moved to the Center.

Mayor Marks pointed out that the city had awarded the bid including the alternate for the specific reason that the exercising of the option of the alternative could be left up to the Board of Supervisors.

## MOTION

That a Council committee be appointed to meet with a committee from the Board of Supervisors on this matter and report its recommendation to the Council.

Moved by Adams      Seconded by Robinson      Unanimously carried

Mayor Marks named Councilman Hammond, Chairman and Councilmen Spaulding and Merrill on the Committee.

Attorney Alvin Anderson, Secretary of the Stanislaus County Bar Association, spoke in opposition to moving the Courts out to the County Center.

APPROVE SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR WATER LINE TRENCHING AT DRYDEN PARK MUNICIPAL GOLF COURSE 4-113

## RESOLUTION NO. 58-343

A RESOLUTION APPROVING SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR WATER LINE TRENCHING AT DRYDEN PARK MUNICIPAL GOLF COURSE

Introduced by Adams      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

The time set for opening of bids was 2:30 P.M., November 3, 1958.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZING CALLING FOR BIDS FOR INSTALLATION OF IRRIGATION SYSTEM FOR DRYDEN PARK MUNICIPAL GOLF COURSE 4-126

## RESOLUTION NO. 58-344

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR INSTALLATION OF IRRIGATION SYSTEM FOR DRYDEN PARK MUNICIPAL GOLF COURSE

Introduced by Arata      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

The City Attorney pointed out that the City could not use its own forces to do any supervisory work on the installation of the water lines for the course, which is to be done with volunteer labor, where the amount would exceed \$1500 without first calling for bids, rejecting them, and declaring that the work can be done better and more economically with city forces. If it is contemplated that city forces are to be used for supervision it is necessary to first go through the bid procedure.

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Mr. Ray stated that it is not anticipated that any bids will be received but in any event, the situation would be cleared with any prospective bidders in respect to the volunteer labor.

The time set for the opening of bids was 2:30 P.M., November 3, 1958.

Answering a question raised by Councilman Spaulding on the progress of recruiting volunteer labor, City Manager Miller reported that as directed by the Council he will write to the Golf Club asking that a program be organized. Until the Council had called for these bids, no precise information could be given the Club. The staff can now ask the Club to get specific on the time schedule.

FINAL ADOPTION OF ORDINANCE NO. 265-C.S. AMUSEMENT DEVICES 5-35

ORDINANCE NO. 265-C.S. entitled

"AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER I OF TITLE IV OF THE MODESTO MUNICIPAL CODE BY ADDING SECTION 4-1.104.1 THERETO RELATING TO AMUSEMENT DEVICES"

introduced on October 15, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                  Absent: None

FINAL ADOPTION OF ORDINANCE NO. 266-C.S. RE: REZONING OF SECTION MAP 16 (MARK RANDY) 5-39

ORDINANCE NO. 266-C.S. entitled

"AN ORDINANCE AMENDING SECTION 16 OF THE ZONING MAP OF THE CITY OF MODESTO, RECLASSIFYING CERTAIN PROPERTY LOCATED THEREON (MARK RANDY)"

introduced on October 15, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                  Absent: None

INTRODUCTION OF ORDINANCE NO. 267-C.S. APPROVING AMENDMENT TO LEASE WITH LEAGUE OF WOMEN VOTERS 5-40

ORDINANCE NO. 267-C.S. entitled

"AN ORDINANCE APPROVING AMENDMENT TO LEASE AGREEMENT WITH THE LEAGUE OF WOMEN VOTERS OF MODESTO, RELATING TO THE RENTAL OF SPACE IN THE MODESTO COMMUNITY SERVICE CENTER IN THE CITY OF MODESTO"

was introduced and ordered printed and published as required by the Charter.

Moved by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None            Absent: None

RESOLUTION URGING THE CONTINUANCE OF THE MODESTO STATE HOSPITAL AS A  
PERMANENT INSTALLATION 5-115

RESOLUTION NO. 58-345

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO RECOGNIZING  
THE IMPORTANCE OF THE MODESTO STATE HOSPITAL AND OF RETAINING ITS  
PERMANENT LOCATION IN MODESTO

Introduced by Spaulding      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

RESOLUTION OF INTENTION TO VACATE PORTION OF ALLEY IN BLOCK 6000-A  
6-06

RESOLUTION NO. 925-S.P.  
RESOLUTION OF INTENTION NO. 264

A RESOLUTION OF INTENTION TO VACATE AND ABANDON A PORTION OF THE ALLEY  
IN BLOCK 6000-A IN THE CITY OF MODESTO

Introduced by Robinson      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

The time set for the hearing was 4:30 P.M., November 19, 1958.

RESOLUTION NO. 58-346

A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING BEFORE  
THE COUNCIL OF THE CITY OF MODESTO ON A PROPOSED AMENDMENT TO SECTION  
20 OF THE ZONING MAP (McHENRY-ALMA AREA)

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

The time set for the hearing was 4:30 P.M., November 19, 1958.

APPROVE FINAL MAP OF GREGORY GARDENS NO. 3 SUBDIVISION OF THE CITY 6-30

RESOLUTION NO. 58-347

A RESOLUTION APPROVING THE FINAL MAP OF THE GREGORY GARDENS NO. 3  
SUBDIVISION

Introduced by Merrill      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

Terms of the agreement were outlined by the City Attorney.

APPROVE AGREEMENT FOR THE INSTALLATION OF STREET TREES WITH U. G.  
BRANNON ET UX 6-45

## RESOLUTION NO. 58-348

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND U. Z. BRANNON AND GENEVA BRANNON FOR INSTALLATION OF STREET TREES IN MONTGOMERY VILLAGE SUBDIVISION NO. 1

Introduced by Hammond      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

APPROVE AGREEMENT TERMINATING LEASE ON AIRPORT PROPERTY WITH GEORGE  
AND FRANK NAKAGAWA 6-50

## RESOLUTION NO. 58-349

A RESOLUTION APPROVING AN AGREEMENT WITH GEORGE AND FRANK NAKAGAWA DOING BUSINESS AS NAKAGAWA FARMS RELATING TO THE TERMINATION OF CERTAIN AIRPORT LEASE

Introduced by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

ORDINANCE APPROVING LEASE AGREEMENT WITH EUGENE BOONE FOR RENTAL OF  
AIRPORT PROPERTY 6-59

## ORDINANCE NO. 269-C.S. entitled

"AN ORDINANCE LEASING CERTAIN CITY OWNED AIRPORT PROPERTY TO EUGENE BOONE, AN INDIVIDUAL AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH"

was introduced and ordered printed and published as required by the Charter.

Moved by Spaulding      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

ACCEPT INSTALLATION OF SUB-TRUNK SEWER IN COFFEE ROAD TO ZLAB #2  
SUBDIVISION 6-69 (GEORGE REED CONTRACTOR)

## RESOLUTION NO. 58-350

A RESOLUTION ACCEPTING THE CONSTRUCTION OF EXTENSION OF COFFEE ROAD SANITARY SEWER TO ZLAB NO. 2 SUBDIVISION

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

ACCEPT IMPROVEMENT OF L STREET FROM 10th TO 14th STREET AND OF 17th  
STREET FROM H TO I STREET FROM GEORGE REED 6-79

## RESOLUTION NO. 58-351

A RESOLUTION ACCEPTING THE CONSTRUCTION OF IMPROVEMENT OF I STREET FROM TENTH TO FOURTEENTH STREET AND SEVENTEENTH STREET FROM H TO I STREET

Introduced by Adams      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                  Absent: None

FURTHER CONSIDERATION OF NO-PARKING ZONES AT INTERSECTIONS 6-80

The City Manager reviewed the discussion on this matter and asked the Council to indicate if it wished the staff to proceed along the basis outlined in the previous discussion and report from the Director of Parking and Traffic.

He pointed out that both the Police and Traffic Departments recommend the establishing of the no-parking zones at the intersections listed in the report and map, and although it could be handled administratively the staff considered it best, because of the volume and nature of the change, to ask for Council guidance.

Mayor Marks questioned the advisability of the program due to loss of parking spaces. He suggested that the Traffic Engineer present reports to the Council, listing the situation, alternatives and recommendations for various intersections. He considered that the City should not be rushed into any program on the basis that it should be done before something happens. Basic facts should be presented with each single intersection.

The City Manager pointed out that the real problems involved intersections which were not signalized. He stated the problem was that statistically the staff did not have any basis to work on but in its judgment the hazard at each intersection listed in the report was sufficient to warrant the placing of the area for sight distances.

Mr. Carmody pointed out that the city's pedestrian fatality rate was far out of proportion to cities of similar size. He stated that the placing of the no-parking zones was a recognized practice in cities throughout the United States. The National Safety Council and the American Automobile Association Pedestrian program grades Modesto down each year because it does not have these zones at intersections. The Council in office in 1929, when the first traffic ordinance was adopted, included this provision. Only a few of these, however, have been installed in the city so far. The installation of these zones at non-signalized intersections is a recognized procedure both statewide and nationwide, he pointed out. Most of the intersections listed in the report are out of the "\$3,000 per space parking area".

Mayor Marks asked Mr. Carmody to give the Council a report of the accidents and sight restrictions at the specific intersections listed in his report.

The City Manager reported that a large number of intersections throughout the city had been cleared of sight restrictions caused by trees and shrubs, as authorized by the Council. While there are still some existing, the city personnel is continually working on the program.

Councilman Hammond expressed opposition to a "blanket application of the rule" but if there was a specific intersection with a specific problem it should be raised before the Council.

The Council members asked that they be given additional time to study the matter and the Clerk was directed to place it on the agenda for the next Council meeting. It was agreed that no further report be furnished by the staff since the Council would make an 'on-the-spot' inspection prior to the meeting.

#### REPORT ON PROPOSED RELOCATION OF PARKING METERS IN PLATOON PARKING 8-06

The City Manager reported that the staff had been trying out the platoon parking in some areas and considered it to be desirable, since the new cars are getting so long it is difficult to park in the normal manner.

Mr. Carmody stated that this was primarily a problem of lengthening the spaces which would provide for a different arrangement of parking, if the Council approved, to accommodate the longer cars. In the survey of the 480 downtown metered areas, there are spaces which range from 13' to 21'. The minimum American car on the road is about 18' and drivers encounter difficulty in getting into these spaces. When these 480 sub-standard spaces are lengthened to 24' there will be a loss of 80 metered spaces or a 20% parking loss.

He reported that at the time the one-way streets were established and the meters were relocated on the left side the new spaces were lengthened to 24' which reduced the parking spaces approximately 10 to 15%. The long new cars are hurting the parking lots also. The Ninth Street parking lot, he stated, which is only 3½ years old, is already sub-standard. It is possible the spaces will have to be widened from 8½ feet to 9 feet.

He estimated the cost to the city for revamping the on-street parking spaces to be approximately \$2,000. Women patrons, parking in the downtown area, are having difficulty in parking the new cars and it will make it easier to shop in this area when the spaces are lengthened.

The City Manager reported that there was a drive on the part of some safety people and traffic organization to limit the length of cars as was done on the width of trucks. He pointed out that no action would be required by the Council at this time.

Councilman Hammond asked that the Traffic Engineer furnish the Council with a map showing the problem areas and the present occupancy rate. Unless the occupancy rate warrants the changing over to the new length, it should not be done at this time. The whole downtown area should not be blanketed in at this time. He asked that the discussion be carried over to a later meeting, until these additional facts could be furnished the Council.

Mayor Marks directed the Clerk to place this matter on the agenda for the next Council meeting and that in the meantime Mr. Carmody prepare a report outlining the facts and alternatives, and comment on the various costs for the spaces in the different areas.

INTRODUCTION OF ORDINANCE NO. 268-C. S. RE: OBSTRUCTIONS IN STREET GUTTERS

ORDINANCE NO. 268-C.S. entitled

"AN ORDINANCE AMENDING CHAPTER I OF TITLE VII OF THE MODESTO MUNICIPAL CODE BY ADDING ARTICLE 3 THERETO RELATING TO OBSTRUCTIONS IN STREET GUTTERS"

was introduced and ordered printed and published as required by the Charter.

Moved by Spaulding      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                  Absent: None

205-30

AUTHORIZE TWO HOUR PARKING ON NINTH STREET IN FRONT OF THE MODESTO  
JUNK COMPANY 9-40

RESOLUTION NO. 58-352

A RESOLUTION ESTABLISHING A TWO HOUR PARKING ZONE ON NINTH STREET  
BETWEEN N AND P STREETS IN THE CITY OF MODESTO

Introduced by Arata Seconded by Hammond

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks

Noes: None Absent: None

CLEAR APPOINTMENT OF DOUG CARMODY ON THE STEERING COMMITTEE OF THE  
ENGINEERING DIVISION OF GOVERNOR'S TRAFFIC SAFETY CONFERENCE 9-50

A letter from C. M. Gilliss, Director of Public Works of the State of California, was noted asking Doug Carmody to serve as a member of the Steering Committee, of the Engineering Division of the Governor's Traffic Safety Conference. No objections to this proposal were offered to the Council.

Mayor Marks commended Mr. Carmody for the job he was doing for the City of Modesto. He stated that on his recent visits to Sacramento he had learned that Mr. Carmody was held in high esteem by the state offices.

REPORT ON INSTALLATION OF WATER LINES BY CITY FORCES 9-67

Director of Public Works Ray reported that the cost of installation of water lines in Westland Manor No. 2 which had been done with city forces had been \$1,397.77, which was 21% below the engineer's estimate of \$1,772.00.

The cost for installation of water lines on Bowen, McHenry and Floyd between alley Block 6817 and Alley in Block 6923 had been \$4,502.20, 20% below the engineer's estimate of \$5,641.70.

ACCEPT OFFER OF STATE TO PURCHASE 5' x 57' PARCEL OF CITY PROPERTY  
LOCATED IN STATE FREEWAY RIGHT OF WAY 6-80

The City Manager recommended that the city accept the offer of \$25 from the State of California to purchase a strip of land 5' x 57' located in the freeway right of way, being Block 310 lots one and two, north five feet of the south 45 feet.

MOTION

That the staff be directed to prepare the necessary documents for Council approval.

Moved by Robinson Seconded by Spaulding Unanimously carried

WITHDRAWING ANNEXED TERRITORY FROM FIRE DISTRICTS 9-90

RESOLUTION NO. 58-353

A RESOLUTION WITHDRAWING CERTAIN DESCRIBED TERRITORY FROM THE BURBANK  
PARADISE FIRE PROTECTION DISTRICT BY REASON OF ITS ANNEXATION TO THE  
CITY OF MODESTO (PARADISE CENTER ADDITION)

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Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

RESOLUTION NO. 58-354

A RESOLUTION WITHDRAWING CERTAIN DESCRIBED TERRITORY FROM THE MCHENRY-  
 DRY CREEK FIRE PROTECTION DISTRICT BY REASON OF ITS ANNEXATION TO THE  
 CITY OF MODESTO (ZLAB SUBDIVISION NO. 2 ADDITION)

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

HOLD OVER SETTING DATE FOR PROPOSED ANNEXATION OF SCHERER ADDITION 9-100

Planning Director Smeath reported that the petition for annexation of the Scherer Addition had been considered and approved by the Planning Commission.

He reported that the applicant had originally proposed to annex this area in the hope that he might then apply for an unclassified use permit for a trailer court.

The matter now before the Council is annexation only as the applicant was informed that he must first annex to the city before any unclassified use permit application could be considered by the Commission, after holding a public hearing.

Mrs. Myrtle Weitle, 306 Emerald Avenue, Alfred Romano, 312 Emerald Avenue, signers on the petition, contended that their signatures were obtained by Mr. Scherer under false pretenses and asked if it would be possible to withdraw their signatures. They wanted their property annexed to the city but not on the basis that there would be a trailer court located in the area. They felt the location of a court in this area, which was close to two schools, would prove to be a traffic hazard and depreciate the value of their residential property. Mr. Scherer had led them to believe, when he obtained their signatures, that the property would be developed for residential purposes.

Mrs. Bertha Bailey, 418 Emerald Avenue, protested the establishment of a trailer court in the area. She asked that the Board of Education be informed of Mr. Scherer's proposal for the trailer court.

The staff was asked to confer with all interested parties and clear all matters pertaining to the proposed annexation and proposal for a trailer court in the area during the next two weeks and the matter again be considered at the Council meeting of November 5.

INTRODUCE NEW MEMBER OF PLANNING DEPARTMENT STAFF 11-05

Don Sanders, new member of the Planning Department was introduced by Planning Director Smeath.

ADDITIONAL TIME GRANTED ALBERT R. MUTH TO COMPLETE SIDEWALKS ON SANTA BARBARA AVENUE 11-20

Attorney Alvin Anderson appeared before the Council on behalf of his client Albert R. Muth, who had been ordered by the Superintendent

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of Streets, as provided in the Streets and Highway Code to complete curb, gutter and sidewalks around his property located on the S.W. corner of Santa Barbara and Roble Avenue

Mr. Muth has now completed part of the work and is asking for permission to delay the balance until December 1 because, 1) damage to street trees might result if the work is done at this time and 2) he is confined to his home at this time due to a dog bit injury and cannot do the work until after Dec. 1. Mr. Anderson asked the Council to establish a reasonable date for Mr. Muth to complete the work after December 1.

Mr. Ray briefed the background of the Council's action on the matter. He stated that Mr. Muth had delayed starting the work until the very last day provided by law. Curb and gutters had been installed on both streets but the sidewalk on one street remains to be completed. Mr. Anderson was advised that it would be necessary for Mr. Muth to complete the work at once or the city would secure the services of a contractor to do it and the charges placed against the property. Mr. Anderson requested that no action would be taken until he had an opportunity to bring the matter before the Council, which request was granted. The problem of drainage has been taken care of by the construction of the curb and gutter, Mr. Ray answered a question raised by the City Manager. Mr. Ray reported that Mr. Anderson had been asked to contact the Director of Parks and Recreation to determine if delay was necessary because of possible damage to street trees. Mr. Ray stated that if there was this possibility that he would recommend the 45 day delay.

The City Attorney stated that until he could check the language of the streets and highway code and the Council's action, he could not rule on the matter.

#### MOTION

That the Council indicate its willingness, if it can be done legally, to extend the time for completion.

Moved by Robinson Seconded by Hammond Unanimously carried

#### REPORT BY CITY ATTORNEY ON CHARLES MICHAEL CASE 11-115

The City Attorney reported that the Superior Court had rendered a decision in favor of the city in the case brought against Charles Michael to enjoin him from using the premises at 315 Magnolia for the purposes of conducting an accounting business. The defendant's attorney is inquiring about the city's position as to when Mr. Michael must move and asking that his client may remain at these premises until May 1, 1959. The City Attorney outlined his reasons why he recommended that this request be approved. He recommended that if this request was approved by the Council that Mr. Michael file a written waiver of appeal with the court and cease conducting his accounting business at this location on May 1, 1959.

#### MOTION

That the recommendation of the City Attorney be approved and the staff be authorized to proceed accordingly.

Moved by Hammond Seconded by Robinson Unanimously carried

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REPORT ON CITIZENS' SEMINAR 12-11

A letter from the Kiwanis Club was read commending the Council on its recent Citizens' Seminar and asking that more such meeting be scheduled in the future.

The City Manager reported that the meeting was attended by a number of interested citizens and many questions were raised and answered. He considered that it was one of the finest meetings he had ever attended. A number of the questions raised will be followed up by the staff.

Mayor Marks stated that the meeting had been very effective and the questions raised were satisfactorily answered and the crowd was very congenial.

REPORT ON GROUND OBSERVER CORPS SPONSORED CIVIL DEFENSE TRIP TO AIR DEFENSE HEADQUARTERS AND AIR FORCE ACADEMY 12-30

The City Manager reported that Vice-Mayor Hammond and he had attended the trip to the Air Defense Headquarters and Air Force Academy at Colorado Springs and both reported briefly on the trip.

REPORT ON BUDGETING OF FUND BY STATE HIGHWAY COMMISSION FOR McHENRY AVENUE WIDENING 12-68

The City Manager reported that the Highway Commission had allocated \$1,450,000 for the McHenry Avenue improvement project.

REPORT ON AIRPORT DEDICATION 12-70

Mayor Marks asked the Council to authorize him to present letters and certificates of merit to Harry Sham, Airport Manager and Supervisor Bob Adams for their efforts in providing adequate airport facilities in the City of Modesto and County of Stanislaus, at the dedication services for the new runway being held October 23 at the Modesto City-County Airport.

## MOTION

That the letters and certificates of merit be presented to Supervisor Bob Adams and Harry Sham, Airport Manager.

Moved by Arata    Seconded by Merrill    Unanimously carried

ADJOURNMENT

## MOTION

That the meeting now in session be adjourned.

Moved by Arata    Seconded by Adams    Unanimously carried

The meeting was adjourned at 10:25 P.M.

ATTEST

  
City Clerk

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Council Meeting  
November 5, 1958

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Merrill, Spaulding, Mayor Marks

Absent: Councilmen: Adams, Robinson

Councilman Adams arrived at 4:03 P.M. and Councilman Robinson at 4:07 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Dale Sherwood gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of October 8 and 15 and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM STATE DEPARTMENT OF PUBLIC WORKS RE: APPORTIONMENT OF 5/8¢ GAS TAX REVENUE 1-21

City Manager Ross Miller reported that the letter indicated that the city's population was 34,387 and the quarterly allocation of 5/8¢ gas tax was \$26,603.55.

#### LETTER FROM FRANK ANDREWS 1-30

A letter from Frank Andrews regarding the operation of the Modesto Irrigation District and urging the Council to acquire and operate electrical system, was noted and ordered filed.

#### CITY CLERK REPORTS RECEIPT OF AFFIDAVIT OF PUBLICATION OF NOTICE OF INTENT IN THE MODESTO BEE FROM FRANK ANDREWS 1-32

The City Clerk reported receipt of an affidavit of publication in the Modesto Bee of a "Notice of Intent" by Frank Andrews to circulate a petition in the City of Modesto to call an election for the taking over and managing of the electrical distribution of the Modesto Irrigation District as provided in Section 1405 of the city charter.

The City Attorney pointed out that no action by the Council was necessary until such time as the petition was actually filed with the City Clerk.

#### LETTER FROM DEL ESTE WATER COMPANY 1-59

The City Manager noted that copies of the letter had previously been distributed to the Council members for their information. He

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pointed out the letter was in reply to the Council Committee's request for specific information from the Del Este Water Company to be used in the water study. The company stated that under the present circumstances they are unwilling to supply the requested information. The letter was ordered filed.

REPORT FROM DEL ESTE WATER COMPANY 1-67

The Council noted receipt of a report from the Del Este Water Company entitled, "Report on the Results of Operation-Year 1957 and an Estimated Test Year 1958". The report was ordered filed.

NOTICE OF PUBLIC HEARING BEFORE THE PUBLIC UTILITIES COMMISSION IN THE MATTER OF APPLICATION OF DEL ESTE WATER COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE RATES CHARGED FOR WATER SERVICE 1-70

The notice stated that the hearing on this application had started this date.

A report from the Council Water Study Committee dated Nov. 5, 1958, on "Status of Water Study", copies of which had been previously distributed to the Council members was read by Councilman Adams, Chairman of the committee.

Councilman Adams pointed out that in view of the refusal of the Board of Directors of the Del Este Water Company to give the Committee the information requested on its water system, the Council should now determine what further actions may be deemed desirable. The Committee recommends for Council consideration:

- 1- Since the committee has not been able to obtain the information necessary for the completion of a comprehensive report by the consultants, the report be completed as rapidly as possible by the consultants with the section on the Del Este Water Company being only as complete as possible on the basis of information available.
- 2- That any further study and report on the Del Este properties within the city be deferred for the present.

Since the operations of the Del Este Water Company involve service to many customers within the City boundaries, the Committee recommends that the city participate in the rate case now before the P.U.C., as an interested party with the assistance of the consultants already employed. It is within the right of the city to request through the Commission at the hearing that the company's showings be broken down so as to develop the results of operations within the city, as compared to operations in the adjacent service areas and the rest of the system. Such information would assist in determining if uniform water rates throughout the holdings of the company are justified or if there should be lower rates for areas in the city as compared to more scattered developments.

MOTION

That the study be completed as recommended by the Council Committee. (both No. 1 and No. 2 recommendations in the report)

Moved by Adams      Seconded by Robinson      Unanimously carried

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## MOTION

That the City of Modesto join in the hearing now underway before the P.U.C., as an interested party.

Moved by Spaulding Seconded by Robinson Unanimously carried

Paul Birmingham, representative of the firm of Water, Ruth & Going, consulting engineers, spoke briefly on the data obtained by the company and stated that it would now be possible to assemble the report since the Council had acted on the Committee's recommendation to delete certain portions pertaining to the Del Este Water Company from the report.

LETTER FROM VALLEY TRACTOR COMPANY RE: BUSINESS LICENSE FEE 2-12

A letter from E. C. Crandall, President of the Valley Tractor Co. was read, protesting to the increased license fee the company would have to pay under the new business license regulations.

Director of Finance Bird reported that other businesses had been checked for the period of 1957-58 with another point of view in equity. In this analysis it was determined that this Company had paid, net, less than one-half of one mill for the fiscal year. Two other businesses in the same line were checked, one of these companies paid 1 $\frac{1}{4}$  mills and the other 1  $\frac{4}{5}$  mills. From an equity standpoint, under the new regulations, comparable businesses will now pay one mill for a business license. More information on this subject will be presented later on license matters.

## MOTION

That the letter be referred to the staff to consider with the whole business license program, as the fiscal year progresses, and report to the Council as soon as all facts are available so the matter can be judged in equity.

Moved by Arata Seconded by Robinson Unanimously carried

LETTER FROM MODESTO RETAIL MERCHANTS-DOWNTOWN DIVISION 2-52

A letter of appreciation was received from the Modesto Retail Merchants-Downtown Division for the Council's cooperation in the recent National Downtown Week. The letter was ordered filed.

The City Manager stated that each city department involved in this observance had been requested to submit a summary of its experience to be used as a guide for future use.

REJECT BID FOR INSTALLATION OF WATER LINES IN DRYDEN PARK MUNICIPAL GOLF COURSE 2-63

The City Manager reported that only one bid had been received for the installation of the irrigation system at Dryden Park Municipal Golf Course, which was from Dalzell Rigging Company in the amount of \$103,213. It was apparent from this bid that the company had not understood that the city had already purchased the pipe. A rough estimate of the cost of the city's portion of the work with volunteer help, offered by the Golf Club, would be of the order of \$6,000.

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Mr. Harry Rix, president of the Golf Club, has been asked to recruit the volunteer help as soon as possible.

The City can do this work much more economically on the basis proposed with city forces and volunteer help, the City Manager stated and it was recommended that the bid be rejected and the work be authorized to be done on this basis.

RESOLUTION NO. 58-355

A RESOLUTION REJECTING ALL BIDS FOR THE INSTALLATION OF WATER LINES IN DRYDEN PARK MUNICIPAL GOLF COURSE AND AUTHORIZING THE WORK TO BE DONE BY AND UNDER THE SUPERVISION OF CITY FORCES

Introduced by Robinson    Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

ACCEPT BID FOR TRENCHING OF WATER LINES IN DRYDEN PARK MUNICIPAL GOLF COURSE FROM TURLOCK TRENCHING COMPANY 2-79

RESOLUTION NO. 58-356

A RESOLUTION ACCEPTING THE BID OF TURLOCK TRENCHING COMPANY IN THE AMOUNT OF \$4,468 FOR WATER LINE TRENCHING AT DRYDEN PARK MUNICIPAL GOLF COURSE

Introduced by Spaulding    Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

PROGRESS REPORT ON THE NEW GOLF COURSE 2-86

The City Manager reported that the rough grading had been completed on the Dryden Park Municipal Golf Course. A meeting had been held on Nov. 3 with Architect W. Bell, representatives of the golf club, representatives of the Sportsmen's Club and members of the city staff. The whole golf course construction program was reviewed. After consultation with Architect Bell, it is recommended that the location of the clubhouse of the Sportsmen Club be moved a little farther to the north than had originally been proposed, which is agreeable to the Club. The city is now staking out the precise location and preparing a description of the location for preparing the grant deed. Mr. Durand has indicated that he would be willing for the city to take possession earlier of the balance of the land (parcels C and D) which is under option. He has also indicated his willingness to continue leasing the walnut trees on a reasonable basis. This new operation will not hamper the continued use of the dehydrator located presently on the premises during the period the trees remain on the property.

The importance of having the volunteer help scheduled properly has been discussed with Mr. Rix of the Golf Club. The volunteer work will primarily be limited to two days, Saturday and Sunday, although an effort is being made to obtain some crews on some of the other days.

The Council discussed the programing of the trenching work prior to the laying of the pipe. The City Manager pointed out that it would

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have to be done immediately ahead of the laying of the pipe which might mean some delay to the contractor unless weather conditions changed.

Director of Public Works Ray pointed out that the specifications on the trenching provided for it to be done on this basis. The contractor probably can do that portion of the trenching the day before which could be completed by the volunteer crews on the following day. A minimum footage of trenching each time the contractor comes on the job is provided in the specifications.

Answering a question of Councilman Adams on the scheduling of the volunteer labor, the City Manager reported he had written a letter to the Golf Club asking that names and dates be submitted of those who would assist in laying the pipe so that the work could be properly scheduled. The Club reports that 32 persons had signed up to do volunteer work.

Mayor Marks raised the question of insurance coverage on the volunteer help.

#### MOTION

That the City Attorney be directed to check out the matter of insurance coverage on volunteer help and report back to the Council.

Moved by Merrill      Seconded by Arata      Unanimously carried

Answering a question from Councilman Arata, the City Manager reported that the approximate cost to laying the pipe with city forces under normal circumstances would be in the order of \$12,000 to \$15,000. It is estimated that the city would save at least half of this sum and possibly two thirds, depending upon the nature of the volunteer help, if the volunteer labor is provided as promised.

Mayor Marks stated that since the volunteer help has been offered it should not be turned down.

Mr. Ray stated that now since the trenching bid was awarded, the contractor would be contacted to determine if he would be willing, in order to facilitate this program, to operate on Saturday and Sunday, without additional cost to the city.

#### ACCEPT BID FOR CONSTRUCTION OF SIDEWALKS AT WHITMORE PARK NO. 2

#### RESOLUTION NO. 58-357

A RESOLUTION ACCEPTING THE BID OF \$1,641.09 FROM ALLIED CONCRETE SUPPLY COMPANY FOR CONSTRUCTION OF SIDEWALK AT WHITMORE PARK NO. 2

Introduced by Merrill      Seconded by Arata  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR  
INSTALLING WATER LINES IN GREGORY GARDENS NO. 3 3-71

RESOLUTION NO. 58-358

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE  
CALLING FOR BIDS FOR INSTALLATION OF WATER LINES IN GREGORY GARDENS  
SUBDIVISION NO. 3

Introduced by Adams      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

FINAL ADOPTION OF ORDINANCE NO. 267-C.S. LEASE-LEAGUE OF WOMEN VOTERS  
3-73

ORDINANCE NO. 267-C.S. entitled

"AN ORDINANCE APPROVING AMENDMENT TO LEASE AGREEMENT WITH THE LEAGUE  
OF WOMEN VOTERS OF MODESTO, RELATING TO THE RENTAL OF SPACE IN THE  
MODESTO COMMUNITY SERVICE CENTER IN THE CITY OF MODESTO"

introduced on October 22, and having been printed and published as  
required by the Charter and coming on for final consideration was  
moved and adopted.

Moved by Hammond      Seconded by Arata  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

FINAL ADOPTION OF ORDINANCE NO. 268-C.S. OBSTRUCTIONS IN STREET GUTTERS  
3-76

ORDINANCE NO. 268-C.S. entitled

"AN ORDINANCE AMENDING CHAPTER I OF TITLE VII OF THE MODESTO MUNICIPAL  
CODE BY ADDING ARTICLE 3 THERETO RELATING TO OSTRUCTIONS IN STREET  
GUTTERS"

introduced on October 22, and having been printed and published as  
required by the Charter and coming on for final consideration was  
moved and adopted.

Moved by Robinson      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

FINAL ADOPTION OF ORDINANCE NO. 269-C.S. LEASE AIRPORT PROPERTY-EUGENE  
BOONE 3-78

ORDINANCE NO. 269-C.S. entitled

"AN ORDINANCE LEASING CERTAIN CITY OWNED AIRPORT PROPERTY TO EUGENE  
BOONE, AN INDIVIDUAL, AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT  
IN CONNECTION THEREWITH"

introduced on October 22, and having been printed and published as  
required by the Charter and coming on for final consideration was moved  
and adopted.

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Moved by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None          Absent: None

INTRODUCE ORDINANCE NO. 270-C.S. AUTHORIZE SALE OF 5' STRIP OF LAND  
 IN FREEWAY ROUTE TO THE STATE OF CALIFORNIA 3-80

ORDINANCE NO. 270-C.S. entitled

"AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY BELONGING  
 TO THE CITY OF MODESTO TO THE STATE OF CALIFORNIA"

was introduced and ordered printed and published as required by the  
 Charter.

Moved by Robinson      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None          Absent: None

ACCEPT IMPROVEMENTS ON GRANGER AVENUE: AUTHORIZE PAYMENTS DUE TO  
 CONTRACTOR STANDARD MATERIALS INC. AND RECORDATION OF NOTICE OF  
 COMPLETION 3-90

RESOLUTION NO. 58-359

A RESOLUTION ACCEPTING THE CONSTRUCTION OF IMPROVEMENTS ON GRANGER  
 AVENUE BETWEEN TIDEWATER SOUTHERN RAILROAD TRACKS AND TULLY ROAD FROM  
 STANDARD MATERIALS INC.; AUTHORIZING PAYMENTS DUE AND RECORDATION OF  
 NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Adams      Seconded by Hammond  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None          Absent: None

REPORT ON ANNEXATIONSTO THE CITY 3-92

The City Manager reported, as requested by the Council, on  
 annexations. Since July 1, 1957, he stated, the city has annexed 292  
 acres, with about 700 home sites, an increase of 2100 in population  
 when improved, and included in this acreage is a little over 10 acres  
 of zoned commercial areas. This continued annexation means additional  
 areas to be served by the city and additional city personnel, which must  
 be kept in mind by the Council in future budgets.

SET DATE FOR ANNEXATION OF SCHERER TRACT TO THE CITY 3-110

As directed by the Council, Director of Planning Smeath reported  
 on the staff's investigation on the protests filed by signers of the  
 petition for annexation of the Scherer Addition because of the possi-  
 bility of Mr. Scherer constructing a trailer court on his property.  
 All of the petitioners now agree that they want annexation and the  
 problem of Mr. Scherer applying for an unclassified use permit to con-  
 struct the court could be considered later on.

RESOLUTION NO. 58-360

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE SCHERER

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ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Spaulding      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None                      Absent: None

The time set for the hearing was Wednesday, December 17 at 4:30 P. M.

HOLD OVER REQUEST OF MODESTO BAND INC. FOR PAYMENT OF \$350      3-117

A letter was read from the Modesto Band Inc. requesting payment of \$350 to help defray the expenses of taking the band to the State Fair at Sacramento.

Director of Finance Bird pointed out that the Band had not presented an itemized statement of expenditures and since it is receiving payment from other agencies for the same trip, he recommended that the city request a statement of expenditures as far as the amount of money appropriated and available for this purpose.

The matter was ordered held over for further clearance by the staff.

STORM DRAINAGE REPORT SUBMITTED      4-1

Copies of the report prepared by the Department of Public Works (October 1958) on "STORM DRAINAGE" were distributed to the Council members. The City Manager suggested that the Council set an early date for discussion on the report after the members have had an opportunity to study it.

Councilman Adams suggested that those persons who expressed interest in storm drainage problems at the recent city seminar be furnished copies of the report.

MOTION

That a public discussion be held on the report at 5:00 P.M. November 19, 1958.

Moved by Arata              Seconded by Adams      Unanimously carried

HOLD OVER MATTER OF PROPOSED AGREEMENT FOR PROVISION OF TEMPORARY STORM DRAINAGE IN NORTHGATE SUBDIVISION      4-45

This matter was held over at the request of the City Manager.

APPROVE SEWER SERVICE CHARGES TO PROPOSED ARMY RESERVE TRAINING CENTER      4-46

Director of Public Works Ray reported that the Army Reserve Training Center was requesting that the city furnish sewer service to its new building being constructed at the northeast corner of Kansas and Emerald Avenues. The Center is requesting that the monthly service fees charged for buildings outside the city limits, which is three times the inside rate, be waived as it would fall within the category of a school which is exempt.

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Mr. Ray considered that this building was not a public school and these provisions of the code would not apply. The Council has the power under the code to establish special rates for this service to other governmental agencies and he recommended that the regular commercial rate for inside the city be established for this operation which would be 50% of the metered water bill.

## MOTION

That the staff be directed to prepare a resolution for Council consideration providing for the recommendations outlined by the Director of Public Works.

Moved by Arata      Seconded by Robinson      Unanimously carried

APPROVE RIGHT OF WAY CONTRACTS FOR WIDENING OF MCHENRY AVENUE 4-78

The City Manager presented right of way contracts from Richard H. Kintz and Madeline Webb Hiatt (two deeds) for the widening of McHenry Avenue.

He reported that excellent progress was being made on securing the remainder of the right of way contracts. Pursuant to Council direction the staff is now working on the documents to be filed condemning those properties which have not been deeded to the state.

The City Attorney recommended that November 19 be set as the date for adoption of the resolution authorizing the institution of condemnation proceedings to acquire the balance of Rights of Way necessary for the project.

## RESOLUTION NO. 58-361

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Merrill      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: None

FURTHER CONSIDERATION OF NO PARKING ZONES AT INTERSECTIONS AND RELOCATION OF PARKING METERS TO LENGTHEN STALLS AND PROVIDE PLATOON PARKING 4-96

The City Manager asked that further consideration of relocation of parking meters to lengthen stalls and provide platoon parking be held over to permit the staff to do some special work to determine different degrees by which to solve the problem.

He asked if the Council wished any additional information on the staff recommendation on no parking zones at intersections. He pointed out that most of the intersections referred to in the staff's report were outside the high-value parking area and at unsignalized intersections.

Councilman Arata questioned the closing of all of the 11th Street parking lot during the construction of the city hall. Merchants are complaining about losing all of these parking spaces in the center of

the city, and one of the merchants is sending a protest letter to the Council. He suggested that the decision on no parking zones at intersections be delayed until receipt of this letter and be considered at the same time.

Mayor Marks ordered that all of these matters be considered when the report on relocation of parking meters is completed.

SET DATE FOR HEARING ON PROPOSED ANNEXATION OF WESTAIRE ADDITION TO THE CITY 5-12

RESOLUTION NO. 58-362

A RESOLUTION GIVING NOTICE OF THE PROPOSED ANNEXATION OF THE WESTAIRE ACRES ADDITION TO THE CITY OF MODESTO AND FIXING THE TIME AND PLACE FOR HEARING OBJECTIONS TO THE PROPOSED ANNEXATION

Introduced by Hammond      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

The time set for the hearing was 5:00 P.M. Wednesday, December 17.

SET DATE FOR HEARING ON PROPOSED REZONING OF LENORA SWOPE PROPERTY LOCATED ON COLDWELL AVENUE 4-20

Resolution No. 466 adopted by the Planning Commission on October 21, recommending to the Council that Section 19 of the Zoning Map be amended to reclassify from Multiple-Family Zone, R-3 and Neighborhood Commercial Zone, C-1 to Light Industrial Zone, M-1, the west 60 feet of lot 18 of Evergreen Acres owned by Lenora Swope, was considered by the Council.

RESOLUTION NO. 58-365

A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING BEFORE THE COUNCIL OF THE CITY OF MODESTO ON A PROPOSED AMENDMENT TO SECTION 19 OF THE ZONING MAP (LENORA SWOPE)

Introduced by Robinson      Seconded by Spaulding  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

The time set for the hearing was Wednesday, Dec. 10 at 8:30 P.M.

REPORT ON HEARING ON GENERAL PLAN HELD OCTOBER 30 5-45

The City Manager noted that the public hearing on the General Plan had been held in the M.I.D. auditorium on October 30. Councilman Hammond gave a brief report on the meeting which had been attended by a large number of interested persons.

The Director of Planning notified the Council that the second public hearing on the Ceres area plan would be held on November 13 at the Ceres City Hall and urged all members to attend if possible.

APPROVE SUBSTITUTION OF SUB-CONTRACTORS FOR CITY HALL CONTRACT 5-65

The City Attorney reported that Ron Fiske Construction Company had filed a request for permission to substitute two contractors under its contract for construction of the City Hall, 1) Mills Metal Partition Company for the furnishing of special partitions in lieu of Fink & Schindler and C. E. Toland for the furnishing of miscellaneous metal work in lieu of Michal-Pfeffer. This is permitted under authority of Section 4104(a) of the Government Code of the State of California, he reported.

## RESOLUTION NO. 58-363

A RESOLUTION AUTHORIZING THE RON FISKE CONSTRUCTION COMPANY TO SUBSTITUTE CERTAIN SUBCONTRACTORS IN CONNECTION WITH THE PERFORMANCE OF THE CONTRACT FOR THE CONSTRUCTION OF THE CITY HALL AND PARKING GARAGE IN THE CITY OF MODESTO

Introduced by Robinson Seconded by Mayor Marks

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None Absent: None

SET FEE FOR DISCONNECTION AND RECONNECTION OF WATER OR SEWER SYSTEM 5-100

## RESOLUTION NO. 58-364

establishing a fee in the amount of \$40 for reconnection of sewer service in accordance with Section 5-6.210(e) of the Municipal Code

Introduced by Merrill Seconded by Adams

Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None Absent: None

FURTHER REPORT ON THE SALES TAX ANALYSIS 5-125

The City Manager reported that the staff had been working on the sales tax analysis with other cities in the county but the report was not yet complete. He asked that the Council defer the matter until a later date. No objections were offered by the members.

CLEAR FURTHER INFORMATION DESIRED FOR ANNUAL STREET DEFICIENCY REPORT 6-1

The City Manager reported that under the state law the city was now required to submit an annual report on street deficiencies. This report includes a list of the street deficiencies, estimated cost for their elimination; a plan or alternate plans for the financing of the improvements; a list of construction projects completed during the year and expenditures therefor; list of construction projects in progress as of June 1 of each year and estimated completion cost and completion date and any other information the staff or Council deems appropriate or necessary.

He recommended that the staff be authorized to proceed on this basis. If additional information is desired by the Council, he pointed out, it could be included in the report.

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## MOTION

That the Council proceed on the basis outlined by the City Manager in the preparation of the required report to the state on street deficiencies.

Moved by Adams    Seconded by Spaulding    Unanimously carried

NOTICE FROM PUBLIC UTILITIES COMMISSION ON APPLICATION OF UNITED AIR LINES TO CHANGE CERTAIN FARES 6-19

The City Manager briefed the notice. No direction was given to the staff by the Council.

REPORT ON LEAGUE CONFERENCE IN LOS ANGELES 6-36

The City Manager reported on the League Conference held in Los Angeles on October 27-29 which had been attended by some of the members of the Council, various Commissions and city staff.

All the members of the Council indicated interest in receiving copies of the speech made by the Mayor of San Jose on "Anticipated Revenues".

Councilman Hammond commended Mayor Marks on his excellent presentation of this speech at the conference.

The City Manager reported on his inspection of the Costa Mesa fire station which had been built for \$16,000. While it would not serve the City of Modesto completely some good ideas were gained from the inspection.

The Fire Rating and Grading Committee of the League met and proposed a resolution which was sponsored by both the Mayor and Councilmen Department and the City Managers Department and finally adopted by the League Assembly. This resolution proposed, 1) that the Board be asked to provide standard typical plans for fire stations; 2) that the Board join with the committee on its fire service study and 3) that the Board establish as a matter of policy the procedure under which it would give to the city it was grading a preliminary report at the conclusion of its engineering survey and then give the city an opportunity to make improvements before the final rating is made.

The City Manager reported that the Highway Committee had made four basic points, 1) that the League support taxation which would provide payment in lieu of taxes on income producing property which the state owns and holds for highway-freeway purposes; 2) that because of substantial increase in federal funds that the League support legislation which would provide a more equitable distribution of state highway construction funds than is presently possible under the Mayo formula; 3) that the League include in its legislation program for 1959, legislation to permit the use of federal urban funds on city streets; 4) that legislation be sponsored which would require the counties and the cities jointly to organize and maintain city-county cooperative plans and programs for the development of highways; 5) that they adopt a statement of municipal policy on highways, which sets forth the fact that there has to be more money on city streets and that cities are going to have to support additional gas tax to get it,

possibly a 1¢ increase and finally that the cities as a part of their program would be willing to match funds which might be made available.

The City Manager stated that a copy of this statement in its entirety would be sent to the members.


ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Merrill Seconded by Arata Unanimously carried

The meeting was adjourned at 5:25 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Hammond, Merrill, Robinson, Spaulding,  
Mayor Marks

Absent: Councilmen: Arata

Councilman Arata arrived at 7:37 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Lewis Whitehead gave the invocation.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of October 22, 1958, and the same being available for public inspection and there being no objections, the minutes were approved.

LETTER FROM RALPH M. BROWN, RE: RETENTION OF STATE HOSPITAL IN MODESTO AREA 1-25

A letter from Assemblyman Ralph M. Brown was read stating that he would do his best to retain the Modesto State Hospital at its permanent location in the city. The letter was ordered filed.

FINAL ADOPTION OF ORDINANCE NO. 270-C. S. SALE OF 5' STRIP OF LAND TO THE STATE 1-29

ORDINANCE NO. 270-C.S. entitled

"AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY BELONGING TO THE CITY OF MODESTO TO THE STATE OF CALIFORNIA"

introduced on November 5, 1958, and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Merrill      Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None              Absent: None

COPY OF FINANCIAL STATEMENT FROM SOROPTIMIST CLUB FILED RELATING TO SENIOR CITIZENS'-CENTER BUILDING FUND 1-40

The Council noted receipt of a financial statement from the Soroptimist Club of Modesto, Inc. relating to its Senior Citizens Building Fund showing a balance of \$5,868.30, and ordered it filed.

Mrs. Alta Coffee, member of the Club, reported on the progress of the project.

REPORT ON TENTATIVE ALLOCATION OF \$8,443 FEDERAL AID FUND FOR AIRPORT IMPROVEMENTS 1-52

The City Manager reported receipt of a letter from the Department of Commerce, Civil Aeronautics Administration advising that the Administrator had tentatively allocated \$8,443. for the Modesto City-County Airport for the United States' share of allowable project costs for the following airport development:

Acquire land for SE clear zone runway 29R-11L	\$7,036.
Construct lighted wind tee	<u>1,407.</u>
	\$8,443.

HOLD OVER REPORT ON YOUTH CENTER ACTIVITIES 1-60

The City Manager asked that this matter be held over in order to complete the report for distribution to the members.

Councilman Arata asked that the report include information on whether the building could legally be used for other purposes than Youth activities.

ACCEPT FINAL MAP OF WALNUT GROVE SUBDIVISION 1-76

Final map for the Walnut Grove Subdivision (19.21 acres) being developed by the Dana Development Association Inc. was presented for Council approval. The City Manager reported that the city's cost for perimeter sewers would be approximately \$1,075.65 and for perimeter street lights \$1,049.78.

The City Manager reported that the request of this Company for city participation in the cost of paving Chicago Avenue, east of Paradise Road, is being checked out with the property owners and a report would be submitted later.

RESOLUTION NO. 58-366

A RESOLUTION APPROVING THE FINAL MAP OF THE WALNUT GROVE SUBDIVISION OF THE CITY OF MODESTO

Introduced by Spaulding      Seconded by Adams  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

REQUEST OF THE BORDEN COMPANY FOR THREE PLANT MIX DRIVEWAYS FOR PLANT LOCATED ON KANSAS AVENUE 1-107

A request was filed by the Borden Company for a temporary variance to permit construction of three blacktop driveway/ <sup>driveways</sup> to connect its driveways with the present paving on Kansas Avenue in order to remove mud holes during the winter season. The Company waived the five day hearing notice, as provided by Section 1-4.03 of the Municipal Code.

City Engineer Ross Campbell reviewed the existing conditions of Kansas Avenue as related to plans for curb and gutters, location of

storm drain and plans for the use of this street as a feeder to the U. S. 99 Freeway. He pointed out that the Company's request was a temporary improvement until the plans for remodeling were completed.

The Public Works Department recommends, Mr. Campbell stated, that a temporary permit, valid for one year from the date of issuance, be granted to the Company to permit the extension of existing paved driveways with no increase in driveway width to their intersection with the pavement on Kansas Avenue. He reported that this temporary permit would permit the Company and the City to coordinate the planning of curb, gutter and driveways to be constructed in their proper locations. He recommended that a performance bond in the amount of \$400 be posted by the Company to provide for the construction of three standard concrete driveway approaches which may be constructed at such time as the Company completes its plans.

S. A. Kauffman, Superintendent of The Borden Company local branch, spoke in behalf of the request. The plans for the remodeling of the plant may not materialize within a period of one year, he pointed out, and the permanent driveways may be located at different places.

The Council discussed the uncertainty of the freeway plans as related to Kansas Avenue and the period of time involved until final plans were made for the street. The possibility of extending the temporary variance if the plans were still unresolved after the one year period was considered by the Council.

Director of Public Works Ray pointed out that the department's recommendation was based on the Council's policy set forth in its Resolution No. 58-235 adopted on July 23, 1958.

The City Manager pointed out that from the present plans for the freeway on Kansas Avenue it is possible that it will not be affected in any way. The actual design of the street itself and the company's facilities would be involved instead of the freeway design. He suggested that a period of 18 months might be set instead of the one year period recommended by the Public Works Department and the \$400 bond be provided by the company so as to conform with the Council's existing policy. An extension of the 18 months variance permit could be requested by the Company, he pointed out, if it was necessary, due to the lack of final plans for the street.

After further discussion the Council agreed that the permit should be granted on a temporary basis not to exceed 18 months; that a \$400 bond be filed to assure that within that time the driveways would be provided on a standard concrete basis at appropriate locations as desired to serve this company.

#### RESOLUTION NO. 58-367

A RESOLUTION GRANTING A TEMPORARY PERMIT TO THE BORDEN COMPANY TO CONSTRUCT THREE BLACKTOP DRIVEWAYS TO SERVE ITS PLANT LOCATED ON KANSAS AVENUE UNDER CERTAIN CONDITIONS.

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
 Noes: None                      Absent: None

REPORT FROM PLANNING COMMISSION - PLANNED RIGHTS OF WAY 3-22

Letter from the City Planning Commission and copy of letter from City Attorney Grimes to County Counsel Reyland relating to the possibility of sponsoring legislation to give the cities and counties adequate authority for the protection of planned rights-of-way from costly, permanent construction were noted by the Council.

The City Attorney stated that until the adoption of the master plan and for areas not covered by it, legislation is needed to implement Sections 65600 through 65704 of the Government Code to protect planned street rights of way. He recommended that the Council go on record and so advise the Board of Supervisors that it would support such legislation to protect the planned rights of way.

## MOTION

That a letter be transmitted to the Board of Supervisors to this effect:

Moved by Spaulding Seconded by Adams Unanimously carried

REPORT ON GOLF COURSE CONSTRUCTION 3-41

The City Manager reported on progress being made in the construction of the new golf course. Volunteer help is to be on hand to assist as needed. Director of Public Works Ray and Director of Parks and Recreation Lowrey have been directed to assume responsibility for construction and coordination of construction and the golf club responsibility for the volunteer help.

## MOTION

That the staff secure an endorsement to the city's comprehensive P. L. & P. D. policy to protect the city's liability on the volunteer help.

Moved by Hammond Seconded by Merrill Unanimously carried

REPORT ON MCHENRY AVENUE IMPROVEMENT 3-60

The City Manager reported that upon the recommendation of the City Attorney a resolution would be presented at the next meeting for Council consideration providing for the condemnation proceedings on those remaining rights of way not yet deeded to the state.

He asked for clarification by the Council on the assignment of the staff's time to this project. He asked for authorization to give the matter urgent, top priority, so that he could work with each owner individually to assist in clearing some matters.

Councilman Arata pointed out that there were a number of parcels which could be cleared without going to court and that it would be advisable for the City Manager to spend considerable time to work out these special cases.

## MOTION

That the City Manager be authorized to give top priority to this project.

Moved by Arata Seconded by Hammond Unanimously carried  
11-12-58 Page 4

Councilman Arata suggested that the Council members be furnished with a list of the remaining rights of way to be acquired so that they could contact those persons they were acquainted with to explain the project, after reviewing the background with the staff.

Mrs. Viola Froloff, 802 Ila Way, owner of a parcel on McHenry and Elmwood Court, considered that she should be paid for the 10 feet she was being asked to deed to the state. The City Manager offered to confer with Mrs. Froloff during the next week to check out her specific case.

#### REPORT ON HEARING ON THE DEL ESTE WATER RATES 3-126

The City Manager reported on the public hearing being conducted by the Public Utilities Commission on the application of the Del Este Water Co. for increase in water rates, which the City Attorney and he had attended recently.

He reported that the City Attorney had presented on behalf of the City of Modesto two matters for consideration, #1) That additional time be granted to provide information on some of the questions raised in the committee's report, particularly the question of whether or not there should be a differential in rates between areas in the city and those outside the city and particularly in more scattered areas of service but this was denied on the basis, 1) that the city had had adequate opportunity to participate in this case not withstanding that it was pointed out by Mr. Grimes that the cities had been unable to get the information; #2) That the Commission has generally held that the city limit line is not necessarily a proper line to differentiate rates.

Mr. Grimes pointed out that the city's concern went also to the difference which might be justified between areas of high concentration as far as service was concerned and those of less concentration. At the City's request the Commission directed the Company to present to the Commission information as to the number of customers per unit of length of line in the various service areas and indicated that the Company might combine the areas to the north and to the northeast which is a single service area as far as the system is concerned.

The City Manager stated that the staff considered that this information will be of substantial benefit in answering the question which was posed by the Council as to whether or not there is adequate justification for some rate differentiation. This will be submitted by the Company and considered by the Commission in its deliberations on this matter.

The Commission turned down the city's request for original and subsequent development and operating costs on the entire Del Este system, the City Attorney reported.

#### PRESENTATION OF FINANCIAL STATEMENT FOR MONTH OF OCTOBER 4-22

The City Manager distributed copies of the report to the Council members.

REVIEW COUNCIL PROCEDURE FOR CONSIDERATION OF MATTERS BY THE COUNCIL 4-25

Council procedure for considering matters not on the agenda was reviewed by Mayor Marks.

- 1- After considering all matters listed under "New Business" the Mayor asks if there are any people from the audience who wished to present any particular matters not on the agenda.
- 2- The Council has adopted an ordinance providing the agenda closes at 2:00 P.M. on Tuesday. No item may be placed on the formal agenda after that time, but may be brought up at this point on the agenda if there is unanimous consent of all the Council. No vote is required but if there is one dissent the item cannot be brought up.

APPROVAL OF PORTION OF PLANNING STUDY 4-45

With the unanimous consent of the Council the City Manager was permitted to present a matter not on the agenda---approval of firm to conduct the Neighborhood study to be made by the city with federal urban funds.

He reported that the three consultants proposed are DeLeun, Cather and Company for the railroad relocation study; Frank Cox for the Central Business study and Pacific Planning and Research for the Neighborhood study.

Questions raised regarding the analysis made by the Pacific Planning and Research Company on the sales tax for the County and cities of the County, he pointed out, makes it necessary to clear with the Council the hiring of this firm to make another study for the city. He stated that this firm has changed its organization substantially since the time it was employed by the County to make the sales tax study, and the man who made the tax study is no longer employed by them. Present members of the firm have helped substantially in correcting and clarification of some of the matters in the report. The company has agreed to assign one of its employees who is competent to make the study and there is no question of his ability to do the work but the staff wished to clear whether or not in view of all of the problems involved in the sales tax study, the Council would approve a new contract with the Company. If a change of companies is made there would be a substantial delay on the program.

Director of Planning Smeath stated that because of the difficulties involved in the report on sales tax the staff had spent considerable time in checking out the matter. The State Planning office and the City Planning Office are both fully convinced that this company can do a good job.

## MOTION

That the hiring of the Pacific Planning & Research Company for the Neighborhood Study be approved.

Moved by Hammond      Seconded by Robinson      Unanimously carried

REMIND COUNCIL MEMBERS OF PLANNING MEETING 5-17

The Council members were reminded of the Second public hearing being held on the General Plan in Ceres City Hall, Thursday, Nov. 13 at 4:45 P.M., dinner meeting at 6:30, and Stanislaus City-County Advisory Committee meeting at 8:00 P.M. at County Center No. 3

FURTHER CONSIDERATION OF MCHENRY AVENUE IMPROVEMENT 5-32

The City Attorney suggested that under authority of Section 2-1.01 of the Municipal Code, the Council resolve itself into executive session to consider the matter of employment of personnel to assist the City Attorney's office in connection with McHenry Avenue project.

Councilman Hammond suggested that before the Council considered hiring additional help for this department the results of authorizing the staff to give immediate priority to the project be evaluated. Councilman Merrill concurred in this suggestion.

The City Attorney pointed out that the city was on a very tight schedule on this project, \$1,450,000 has been allocated by the state for the project, the Council has set up a priority list and the state was attempting to go to bid on the project in December. A lot of legal work must be accomplished to reach this point.

## MOTION

That the Council resolve in executive session to discuss this subject.

Moved by Spaulding Seconded by Adams Unanimously carried

Mayor Marks declared a five minutes recess at 8:37 P.M. for the clearing of the audience from the Council Chamber. At the request of Mayor Marks, the City Attorney advised the audience and members of the press the reason for the holding of the executive session and how it conformed with the law.

Mayor Marks reconvened the Council meeting at 9:35 P.M.

## MOTION

That the City Attorney prepare an agreement to associate the firm of Hoover, Lacy & Bienvenu to render legal services required in the McHenry Avenue widening project.

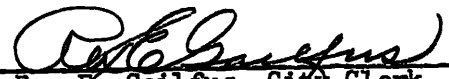
Moved by Robinson Seconded by Spaulding Unanimously carried

ADJOURNMENT

## MOTION

That the meeting now in session be adjourned.

Moved by Arata Seconded by Spaulding Unanimously carried

ATTEST:   
Rex E. Gailfus, City Clerk  
11-12-58 Page 7

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond

Absent: Councilmen: Spaulding, Mayor Marks

Mayor Marks arrived at 5:25 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Keith Korstjens gave the invocation.

#### APPROVAL OF MINUTES

Council members have received copies of the minutes of the Council meetings of Nov. 5 and 12, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM FRANK ANDREWS

A letter received from Frank Andrews regarding the operation of the Modesto Irrigation District was noted. Mr. Andrews requested permission to operate a loud speaker on the streets and a sandwich board to advertise the operations of the M.I.D. By unanimous consent of the Council, the matter was referred to the City Manager.

#### LETTER FROM AMERICAN ASSOCIATION OF UNIVERSITY WOMEN 1-40

A letter from the American Association of University Women to Mayor Marks was read commending the Council on the recent Citizens' Seminar and urging that more of these meetings be held. The City Clerk was directed to acknowledge receipt of the letter.

#### LETTER AND RESOLUTION FROM GREATER MODESTO CHAMBER OF COMMERCE 1-50

A letter and copy of resolution adopted by the Greater Modesto Chamber of Commerce was read recommending that the Council establish a firm policy "which would protect the expedient flow of traffic and provide a basis of traffic safety and that this policy follow the principle in planning that grouped commercial developments are highly preferable to extended commercial developments adjacent to major highways".

The City Manager stated that copies had also been sent to the County and the City Planning Commission.

#### LETTER FROM LEAGUE OF CALIFORNIA CITIES TO MAYOR MARKS 1-67

With the unanimous consent of the Council, Mayor Pro Tempore Hammond read a letter not included on the agenda received by Mayor Marks from the League of California Cities expressing appreciation for his contribution as a participant in the annual conference in Los Angeles, Oct. 27-29.

**LETTER FROM NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS RE: ATTENDANCE OF CITY ATTORNEY GRIMES TO ANNUAL CONFERENCE IN CHATTANOOGA, TENNESSEE 1-77**

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With the unanimous consent of the Council, Mayor Pro Tempore Hammond read a letter from the National Institute of Municipal Law Officers urging Council approval for the attendance of City Attorney Grimes to the annual conference in November in Chattanooga, Tennessee.

**MOTION**

That the attendance of the City Attorney to the conference be authorized.

Moved by Robinson Seconded by Adams

Mayor Pro Tempore Hammond declared that the motion received a majority vote and carried.

**REJECT BID RECEIVED FOR INSTALLATION OF WATER LINE IN GREGORY GARDENS NO. 3 AND AUTHORIZE WORK WITH CITY FORCES 1-105**

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The City Manager reported that one bid had been received for the installation of water lines in Gregory Gardens Subdivision No. 3. Underground Construction Company has submitted a bid of \$13,838.70. The Public Works Department estimated that the work could be done for the sum of \$3,862.50. Since the bid received exceeds the city's estimate by more than 10%, the Department recommended that it be rejected and city forces be authorized to perform the work.

**RESOLUTION NO. 58-368**

**A RESOLUTION REJECTING ALL BIDS FOR THE INSTALLATION OF WATER LINES IN GREGORY GARDENS SUBDIVISION NO. 3 AND AUTHORIZING THE WORK TO BE DONE BY CITY FORCES**

Introduced by Robinson Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
 Noes: None Absent: Spaulding, Mayor Marks

**APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR DEEP WELL NEAR MCHENRY VILLAGE 1-115**

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**RESOLUTION NO. 58-369**

**A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR DRILLING, CASING, TESTING AND DEVELOPMENT OF ONE DEEP WELL FOR THE CITY OF MODESTO**

Introduced by Adams Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
 Noes: None Absent: Spaulding, Mayor Marks

Answering a question from Councilman Robinson, Director of Public Works Ray reported on the city's policy for installation of natural gas standby facilities on city wells.

APPROVE AGREEMENT WITH ROOSEVELT CENTER INC. FOR TEMPORARY DRAINAGE FACILITIES IN NORTHGATE SUBDIVISION 1-120

RESOLUTION NO. 58-370

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND ROOSEVELT CENTER INCORPORATED FOR TEMPORARY DRAINAGE FACILITIES IN NORTHGATE SUBDIVISION

Introduced by Robinson      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                      Absent: Spaulding, Mayor Marks

INTRODUCE ORDINANCE AMENDING SEC. 4-7.403 OF MUNICIPAL CODE RELATING TO PEDDLERS 2-19

ORDINANCE NO. 271-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-7.403 OF ARTICLE 4 OF CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO PEDDLERS"

was introduced and ordered printed and published as required by the Charter.

Moved by Robinson      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                      Absent: Spaulding, Mayor Marks

HOLD OVER APPROVAL OF AGREEMENT WITH MODESTO RETAIL MERCHANTS ASSOCIATION CONCERNING INSTALLATION OF CHRISTMAS STREET DECORATIONS 2-25

At the request of the City Attorney this matter was ordered held over.

ACCEPT IMPROVEMENTS OF ROSEBURG, CROSSING OF TIDEWATER TRACKS AT ORANGEBURG AND BRIGGSMORE AVENUES 2-30

RESOLUTION NO. 58-371

A RESOLUTION ACCEPTING IMPROVEMENTS OF ROSEBURG AVENUE BETWEEN MILLS AND THE TIDEWATER SOUTHERN RAILROAD AND THE ORANGEBURG AND BRIGGSMORE CROSSINGS OF THE TIDEWATER SOUTHERN RAILROAD; AUTHORIZING PAYMENT DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                      Absent: Spaulding, Mayor Marks

APPROVE AGREEMENT WITH COUNTY FOR RECREATION PROGRAM FOR FISCAL YEAR 1958-59 2-45

Terms of the agreement were briefly reviewed by the City Manager. The amount to be paid to the city by the county for the fiscal year 1958-59 was \$14,475.19.

Director of Parks & Recreation Lloyd Lowrey reported on the city's unsuccessful efforts to have this sum increased by the county, and the basis used by the County to determine the allocation.

RESOLUTION NO. 58-372

A RESOLUTION APPROVING AGREEMENT WITH STANISLAUS COUNTY FOR RECREATION PROGRAM FOR THE FISCAL YEAR 1958-59

Introduced by Arata      Seconded by Merrill  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Spaulding, Mayor Marks

REPORT ON WATER LINE INSTALLATIONS BY CITY FORCES 2-69

The City Manager reported that the total cost for the installation of water mains in Bel Air Subdivision No. 2 and Northgate Subdivision No. 2 was \$3,214.69, which was 19.6% below the estimate.

The total cost for installation of water lines on Highway 99 between Haney and Carver and on Carver between Highway and Orangeburg was \$3,903.33, which was 2.7% above the estimate.

ESTABLISH RATES FOR FURNISHING SEWER SERVICE TO U. S. ARMY ENGINEER CORPS 2-76

RESOLUTION NO. 58-373

A RESOLUTION ESTABLISHING A RATE FOR FURNISHING SEWER SERVICES TO THE UNITED STATES ARMY ENGINEER CORPS ON PROPERTY TO BE USED FOR A RESERVE TRAINING CENTER

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Spaulding, Mayor Marks

FURTHER CONSIDERATION OF MCHENRY AVENUE WIDENING PROJECTS 2-86

The City Manager reported certain matters had not yet been cleared with the property owners involved in the vacation of the alley between McHenry Avenue and Alma and requested that the staff be granted additional time to complete these agreements before the Council adopted the proposed resolution authorizing condemnation of real property for state highway purposes. There are also other parcels which the staff feels can be cleared so that they will not have to be included in the resolution. The Council offered no objection to the delay.

RESOLUTION NO. 58-374

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND HOOVER, LACY & BIENVENU FOR LEGAL SERVICES IN CONNECTION WITH MCHENRY AVENUE WIDENING CONDEMNATION PROCEEDINGS

Introduced by Adams      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
Noes: None                  Absent: Spaulding, Mayor Marks

HEARING ON PROPOSED VACATION OF ALLEY IN BLOCK 6000-A BETWEEN MCHENRY AVE. AND ALMA AVE. 2-97

Mayor Pro Tempore Hammond declared that the hour of 4:30 P.M. had arrived, the time set for the public hearing on the proposed vacation

of alley in Block 6000-A (McHenry Avenue and Alma Avenue area).

The City Clerk certified that Resolution of Intention No. 264 setting the time and place for the hearing had been published in the manner and for the time prescribed by law; notices posted in the area; notices mailed to property owners and no written protests to the proposed vacation of the alley had been received.

The City Manager reviewed the changes proposed and also new changes which had been proposed since prior consideration by the Council. He stated that the original proposal for a 24' alley would have to be changed to a 20' alley instead. The City Manager recommended that final action be held over but the property owners who were present be given an opportunity to be heard to clear any questions.

Recommendations of the Planning Commission for the vacation of the alley were outlined by Planning Director Smeath.

The City Attorney reported that it is proposed the new alley be paved by the property owners involved, and that a six foot fence be erected on the west side of the new alley to separate and serve as a buffer between the alley and the homes on the west side.

Mr. Smeath stated that if the general agreements which have been proposed are agreed to by everybody involved, then the residential property owners would agree to waive their rights to enforce the deed restriction provisions on the extra 40 feet which could then be zoned for commercial uses.

Attorney Arthur Friedman, representing the property owners asked, and the Council directed, the staff to confer with him before the final agreements had been prepared for execution by the property owners.

City Attorney Grimes and City Manager Miller pointed out that they would recommend to the Council that no action be taken until the agreements had been completed.

Harold Schulenberg also spoke regarding inclusion of conditions in the agreements to be executed by the owners.

No objections were offered by the property owners who were present, to the conditions previously outlined by the City Manager.

MOTION

That the hearing be adjourned to November 26 at 8:00 P.M.

Moved by Arata Seconded by Merrill Unanimously carried

HEARING ON REZONING OF PROPERTY ON MCHENRY AVENUE AND ALMA AVENUE AREA  
3-113

Mayor Pro Tempore Hammond declared that the hour of 4:45 P.M. had arrived, the time set for the public hearing on the proposed amendment of Section 20 of the Zoning Map, providing for rezoning the McHenry Avenue and Alma Avenue area from Single-Family, R-1 to General Commercial, C-2.

Certification filed by the City Clerk that notices of the hearing had been published in the manner and for the time prescribed by law; notices posted in the area, notices mailed to property owners and no written protests had been received, was noted by the Council.

Resolution No. 465, adopted by the City Planning Commission on October 21, 1958, was noted by the Council, recommending the rezoning on the following conditions:

That prior to the rezoning, the property owners affected sign an agreement with the City agreeing to:

1. Dedicate the necessary land for the new alley;
2. Improve the new alley to city standards;
3. Erect a 6-foot wooden fence along the west side of the new alley except across the existing El Patio parking area; such fence to have no openings for vehicular access to the alley;
4. Sell the land to be made commercial to abutting commercial owners at a price of forty cents (40¢) per square foot;
5. Dedicate the right of way requested for the widening of McHenry Avenue.

Since the proposed rezoning was related to the proposed alley vacation in the same area, the City Manager recommended that it be held over for consideration at the same meeting.

Mayor Pro Tempore Hammond asked if there were any oral protests or if anyone wished to make any comments. No questions were raised or comments made.

#### MOTION

That the hearing be adjourned at 8:05 P.M. November 26, 1958.

Moved by Arata Seconded by Robinson Unanimously carried

#### ESTABLISH NO PARKING ON PORTION OF MCHENRY AVENUE 4-03

#### RESOLUTION NO. 58-375

A RESOLUTION ESTABLISHING NO PARKING DURING SPECIFIED HOURS ON THE EASTERLY CURB OF MCHENRY AVENUE BETWEEN DOWNEY STREET AND JONES STREET AND ON THE WESTERLY CURB OF MCHENRY AVENUE BETWEEN NEEDHAM STREET AND JONES STREET IN THE CITY OF MODESTO

Introduced by Robinson Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
 Noes: None Absent: Spaulding, Mayor Marks

#### HOLD OVER FURTHER CONSIDERATION OF NO PARKING ZONES AT INTERSECTIONS AND LENGTHENING OF PARALLEL PARKING SPACES IN METERED AREAS 4-15

It was generally agreed by the Council members that this matter be held over to give them an opportunity for further study. By order of the Chair the matter was set for further consideration at December 3 Council meeting.

RESCIND RESOLUTION PROHIBITING SPECIFIED TURNING MOVEMENTS AT INTERSECTIONS OF NINTH STREET WITH H AND G STREETS 4-26

RESOLUTION NO. 58-376

A RESOLUTION RESCINDING RESOLUTION NO. 56-234 ENTITLED "A RESOLUTION PROHIBITING SPECIFIED TURNING MOVEMENTS AT THE INTERSECTIONS OF NINTH STREET AND G STREET AND NINTH STREET AND H STREET IN THE CITY OF MODESTO"

Introduced by Arata      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
 Noes: None                      Absent: Spaulding, Mayor Marks

DESIGNATING ONE WAY ALLEY BETWEEN G AND H STREETS AND TENTH AND 11th STREETS 4-30

Director of Parking and Traffic Carmody reported that the property owners in the block bounded by Tenth, Eleventh, G and H Streets had requested that the one-way alley be changed from its present direction from G <sup>to</sup> H Street to run in the opposite direction. The principal reason for the request is that it would permit more convenient access to the business concerns from the west. He pointed out that one minor difficulty would be that the existing one-way pattern of alleys would be broken. These business concerns are of such size that they receive large truck shipments. About the only concern which would be inconvenienced by the change would be the Garbage Collectors who travel in a continual direction in the alleys. The Company has been contacted and although there would be some inconvenience, no objections will be filed. Other delivery companies have also been contacted and they will not offer any objections.

RESOLUTION NO. 58-377

A RESOLUTION DESIGNATING A ONE-WAY ALLEY BETWEEN G AND H STREETS AND TENTH AND ELEVENTH STREETS IN THE CITY OF MODESTO

Introduced by Merrill      Seconded by Robinson  
 Ayes: Adams, Arata, Merrill, Robinson, Mayor Pro Tempore Hammond  
 Noes: None                      Absent: Spaulding, Mayor Marks

Difficulty of turning movements by trucks was briefly discussed by Mr. Carmody and Councilman Arata. Disadvantages of two way alleys in the central business district was explained by Mr. Carmody.

INFORMAL HEARING ON STORM DRAINAGE REPORT PREPARED BY THE PUBLIC WORKS DEPARTMENT 4-100

Mayor Pro Tempore Hammond declared the hour of 5:00 P.M. had arrived, the time set for the informal hearing on storm drainage matters.

The City Manager reported that copies of the report by the Public Works Department had been distributed to the Council members and interested property owners.

A. M. Frad, representing the Wilson School Dad's Club, stated that the playground of this school was subject to flood during storms and that the Club had as its main project for this year the solution of

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the drainage problem. He noted that the report suggested the drainage of the LaLoma Area be tied in with the improvement of Yosemite Boulevard by the State Division of Highways and City as is being done on McHenry Avenue. He urged that the Council accept the recommendations in this report and contact the State in regard to the possibility of improving the street. If the state is unwilling to go along on this project, the alternative in the report should be considered by the Council.

The City Manager reported that the city staff had discussed with the School the possibility of installing curbs. He indicated that he would be glad to work with the Wilson School Dad's Club and the School in this regard.

Mayor Pro Tempore Hammond stated that it was evident from the report that it was now the Council's opportunity to guide the staff in fulfilling some of the recommendations.

The Mayor asked for comments from the audience:

Robert Bomberger commended the Department on the report. He considered that something should be done to relieve the drainage problems as soon as possible. He believed that the property owners in the various areas would cooperate with the city to bring the drainage problems to a satisfactory conclusion.

Councilman Arata stressed the importance of property owners interest and cooperation with the Council to put the program over. He expressed disappointment at the small number of persons who were present at this meeting.

Stanley Maurer, 1202 Mt. Vernon Drive, considered that future meetings on this matter should be well publicized to attract those persons who were interested in drainage.

Answering a question raised by Mr. Maurer on the staff's preference for solving the Northwest Area drainage, Director of Public Works Ray stated that it was the construction of an open drainage canal west of the city because of the flexibility of the plan. This plan could more economically serve a much larger area than is presently developed. Since there is a major problem in this area and as the city is interested in the most economical drainage for any section throughout the city, the staff considered that it would be wiser at this time not to include in the report the department's direct preferences but to make the recommendation that consultants be secured to study this matter. The reason for this is that the city staff does not have the time to carry on drainage work for the entire city along with its other regular functions.

Councilman Adams pointed out that the city would have a problem selling the drainage program to the city as a whole. He suggested that the Council give some thought to analyzing drainage as an overall city wide problem and equalize the cost to each individual property owner in the various areas and finance the program on the "third party arrangement" as was proposed in the report. This arrangement would result in uniform costs. Even if the work was done by area basis, this arrangement for equalizing the cost could be used, Councilman Adams considered.

The City Attorney suggested that if a basis of front footage or per lot charge was determined there could be supplementary money from other source which would balance out the cost. He pointed out that those owners on McHenry Avenue were paying for their drainage by deeding their rights of way.

The use of general obligation bonds or capital improvement funds was briefly discussed.

The City Manager referred to page 19 of the report relating to financing. He asked the Council to consider the possibility that the city should offer some special incentive to the areas as is done for paving of streets. He thought that the city might have to advance funds for areas which were not presently entirely developed, as is being done for perimeter sewers. He suggested that a postcard poll be taken in some of the areas so that the program could be started at an early date.

Mayor Marks arrived at the meeting at 5:25 P.M.

Councilman Adams asked that the cost for all of the various areas be considered as one project to determine an average cost to each property owner.

Mr. Ray pointed out that the staff had recommended the formation of a special committee to study the financing program.

Councilman Hammond suggested after the Council was more familiar with the report and recommendations of the staff that consideration be given to the appointment of a Citizens Committee.

By order of the Chair this matter was ordered placed on the Council agenda for further consideration at 8:00 P.M., December 10.

LETTER FROM FERRERO ELECTRIC RE: REQUEST FOR REFUND OF DEPOSIT ON CITY HALL PLANS 6-87

A letter from Ferrero Electric Co. was read, requesting Council consideration for refund of \$75 deposit placed on City hall plans and specifications, which had not been returned on September 29, subsequent to the deadline date.

The City Manager pointed out that the specification clearly stated that the plans and specifications should be returned within 5 days after opening of the bids (Sept. 16). This question has been raised a number of times on other plans and specifications and the city has not refunded the deposit. There is no reasonable basis to start deviating from this policy.

MOTION

That the request be denied.

Moved by Mayor Marks Seconded by Merrill Unanimously carried

Mayor Marks asked the City Clerk to notify the company of the Council's decision and stated he would also write a letter.

REQUEST OF SALVATION ARMY TO PLACE KETTLE FOR COLLECTION OF CHRISTMAS FUNDS IN FRONT OF KRESS' STORE ON TENTH STREET 7-05

A letter was read from the Salvation Army asking permission to place one kettle on the sidewalk in front of Kress' Store on 10th Street during the month of December. Conditions under which the request could be approved were discussed and defined by the Council and the staff.

RESOLUTION NO. 58-378

A RESOLUTION GRANTING A PERMIT TO THE SALVATION ARMY TO PLACE A KETTLE IN FRONT OF THE S. H. KRESS AND COMPANY STORE DURING THE CHRISTMAS SEASON

Introduced by Arata      Seconded by Robinson  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                  Absent: Spaulding

APPROVE SALE OF LEAVES COLLECTED FROM CITY STREETS TO ORGANIC COMPANY OF TURLOCK 7-06

The City Manager reported receipt of an offer to buy the leaves collected by the city crews and stockpiled at the Modesto City Sewer Farm for the balance of the fiscal year from Organic Company of Turlock for the sum of \$250, payable in advance.

RESOLUTION NO. 58-379

A RESOLUTION AUTHORIZING THE SALE OF ALL THE LEAVES COLLECTED BY THE CITY CREWS AND STOCKPILED AT THE MODESTO CITY SEWER FARM FOR THE BALANCE OF THE FISCAL YEAR 1958-59 TO THE ORGANIC COMPANY OF TURLOCK FOR THE SUM OF \$250

Introduced by Adams      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
 Noes: None                  Absent: Spaulding

The City Manager pointed out that Resolution No. 57-166 adopted by the Council on April 17, 1957 establishing the policy and the price for the sale of leaves would still continue in effect, and this would only apply for the balance of this fiscal year.

PRELIMINARY CONSIDERATION OF AGREEMENT WITH MASONIC CEMETERY ASSOCIATION FOR INSTALLATION OF LINK FENCE BETWEEN THE CEMETERY PROPERTY AND THOMAS B. SCOTT PARK 7-36

Director of Parks and Recreation Lowrey reported that the city had reached agreement with the Masonic Cemetery Association to share the cost on an equal basis of a chain link fence between the cemetery property and the Thomas B. Scott Park. A bid of \$978 for the fencing has been received by the city. Agreement for Council consideration will be presented at the next Council meeting, he stated. The City purposes to remove the existing fence with city forces since it is owned by the city and is in very poor condition. He reported on plans for planting of shrubs to screen the cemetery from the park.

## MOTION

That the staff be authorized to proceed as recommended by the Director of Parks and Recreation.

Moved by Adams Seconded by Robinson Unanimously carried

DESIGNATE CITY MANAGER TO SUBMIT ANNUAL STREET DEFICIENCY REPORT 7-73

The City Manager reported that the state law required that the City designate the city official to submit the annual street deficiency report.

## MOTION

That the City Manager be authorized to submit the annual street deficiency report to the State of California.

Moved by Arata Seconded by Hammond Unanimously carried

REPORT ON NEW GOLF COURSE 7-76

The City Manager reported on conferences held between city staff and representatives of the Sportsmen Club regarding the relocation of its clubhouse in order to avoid a conflict with the driving range. The Club has now made an offer to Horace Dryden for the purchase of other land west of Sunset Blvd. for its clubhouse.

He stated that the staff is now proposing that the city purchase additional land from Mr. Dryden, as indicated on map displayed to the Council, to assure the clubhouse area, proper entrance, practice greens and parking area. He pointed out that with these new plans the extension of Neece Drive would not be necessary. The City Manager reported that value of the acreage taking into account severages had been estimated by the city appraisers at approximately \$10,000. He pointed out that this price was not a 'raw land price' but a price which takes into account all of the factors.

## MOTION

That the staff be authorized to proceed as outlined by the City Manager to work out arrangements for the purchase of the property from Horace Dryden.

Moved by Arata Seconded by Robinson Unanimously carried

Attorney Elmer Winger, representing Horace Dryden, recommended that the city make its offer to purchase the property so that it could be considered jointly with the offer of the Sportsmen of Stanislaus to purchase a site for its clubhouse.

REPORT ON INSURANCE COVERAGE FOR VOLUNTEER WORKERS AT NEW CLUB 8-51

The City Attorney reported that the city's present Compensation Insurance coverage does not cover the volunteer workers at the new golf course. The City's Comprehensive public liability and property damage policy will cover claims against the city.

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PROGRESS ON DEVELOPMENT OF THE 18 HOLE GOLF COURSE 8-69

The City Manager reported that he had reviewed with representatives of the Golf Club whether it would be desirable to start at the west end of the course and proceed across full sweep with the pipe, fine grading, preparation of the soil, etc. or as an alternative develop one nine hole section at a time. He pointed out that the latter alternative would permit completion of 9 holes separately if bad weather or other factors delayed completion. The Club representatives have indicated they would rather "shoot for all of it" at one time. He asked for Council direction on proceeding.

## MOTION

That the staff be authorized to proceed to do the entire job without dividing it up by "nines".

Moved by Adams Seconded by Hammond Unanimously carried

CONSIDER OFFER TO PURCHASE USED ADDRESSOGRAPH FRAMES 8-100

The City Manager reported that the city had approximately 5000 used addressograph frames not now in use. Allen J. Stedjee, 918 Badgley Drive, has offered to buy these at \$3.50 per thousand. Before these are sold, he stated, other interested parties should have an opportunity to make an offer.

Mayor Marks asked the Director of Finance to make a check with Bob Leonardini before accepting this offer.

HOLD OVER APPROVAL AGREEMENT WITH STATE FOR PAYMENT OF SERVICE AND HANDLING CHARGES IN THE PURCHASE OF SURPLUS PROPERTY 8-114

This matter was held over to permit the City Attorney to check the agreement.

DENY REQUEST OF PADDOCK ENGINEERING CO. FOR REFUND OF BUSINESS LICENSE PENALTIES 8-118

A letter from Paddock Engineering Company was read requesting refund of \$5.75 business license penalty which had been paid by the company under protest. The company claimed they did not receive a notice of license due.

Report of the Director of Finance indicating that the third copy of their application was returned in sufficient time indicating the amount of license due the city.

## MOTION

That the claim for refund be denied.

Moved by Adams Seconded by Hammond Unanimously carried

Director of Finance Bird reported on the procedure followed by the Finance Department on processing the applications which were required for this year only because of the new business license regulations.

RECOMMENDATION FROM PLANNING COMMISSION RE: APPLICATION OF ELMER NORWOOD FOR BEER LICENSE AT 1007 YOSEMITE BOULEVARD 9-36

Director of Planning Smeath reported on the adoption of Resolution No. 475 by the Planning Commission on November 18 recommending to the Council that it protest the granting of an on-sale beer license to Elmer Norwood for the premises at 1007 Yosemite Boulevard.

As this would be near the Wilson Avenue Elementary School where many children cross Yosemite Boulevard, the Council considered a protest should be voiced by the city with the State Department of Alcoholic Beverage Control so that a public hearing could be held in the city.

RESOLUTION NO. 58-380

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO PROTESTING THE GRANTING OF AN ON-SALE BEER LICENSE FOR THE PREMISES AT 1007 YOSEMITE BOULEVARD

Introduced by Hammond Seconded by Merrill  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None Absent: Spaulding

COUNCIL REQUEST SENATE SPECIAL COMMITTEE ON GOVERNMENTAL ADMINISTRATION SUBCOMMITTEE ON OUTDOOR ADVERTISING TO GIVE CAREFUL CONSIDERATION TO THE ADOPTION OF REGULATIONS RE: BILLBOARDS 9-107

Pursuant to referring the matter of billboard control to the Planning Commission, Mr. Smeath reported that it had been considered and Resolution No. 474 adopted on November 18 recommending to the Council that the Senate Special Committee on Governmental Administration Subcommittee on Outdoor Advertising be requested to give careful consideration to the adoption of reasonable but effective regulations governing the location, size, number and content of billboards permitted to be erected within viewing distance of limited access highways in the unincorporated, noncommercial and nonindustrial areas of the state.

RESOLUTION NO. 58-381

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO RELATING TO THE LOCATION OF BILLBOARDS ALONG LIMITED ACCESS HIGHWAYS

Introduced by Hammond Seconded by Robinson  
Ayes: Adams, Arata, Hammond, Merrill, Robinson, Mayor Marks  
Noes: None Absent: Spaulding

CITY MANAGER GIVEN UNANIMOUS CONSENT TO RAISE MATTER NOT ON AGENDA-- PAYMENT TO MODESTO BAND FOR TRIP TO SACRAMENTO 10-07

With the unanimous consent of the Council, the City Manager raised a matter not on the agenda-----payment to Modesto Band of \$350 for trip to Sacramento.

He read a report from the Band itemizing the expenses for the trip made in September. The report of the Director of Finance that he had reviewed the report with Mr. Oliver Deatsch representing the band was noted.

The City Manager suggested for Council consideration that if this participation of the expenses was to be an annual procedure that it be done on a flat fee basis. He pointed out it could be added to the present agreement for other matters.

MOTION

That this be included in the general agreement with the Band on a flat fee basis.

Moved by Arata    Seconded by Merrill    Unanimously carried

MOTION

That the payment of the \$350 for this year be authorized on this basis.

Moved by Merrill    Seconded by Arata    Unanimously carried

HOLD OVER MATTER ON LEGAL ASPECTS OF USE OF MADDUX YOUTH CENTER 10-35

This matter was ordered held over to be considered with the report on activities at the Maddux Youth Center.

ADJOURNMENT

MOTION

That this meeting now in session be adjourned.

Moved by Arata    Seconded by Merrill    Unanimously carried

The meeting was adjourned at 6:20 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

Council Meeting  
November 26, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Pro Tempore Hammond presiding.

The City Clerk called the roll and there were

Present: Councilmen Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond

Absent: Mayor Marks

The pledge of allegiance to the flag was given by all those present.

Rev. Guy D. Smith gave the invocation.

RESOLUTION FROM COUNTY BOARD OF SUPERVISORS RE: RETENTION OF MODESTO STATE HOSPITAL 1-11

A copy of a resolution adopted by the Stanislaus County Board of Supervisors on November 10, 1958 urging the State Department of Mental Hygiene to support the retention and continued operation of the Modesto State Hospital as a permanent institution within the County, was noted by the Council and ordered filed.

LETTER FROM M. SPIVACK RE: BUS SERVICE IN CITY 1-20

A letter to Mayor Marks from M. Spivack, 430 N Second St., San Jose, was read complaining of the bus service afforded to citizens of Modesto.

By order of the chair the staff was directed to acknowledge the communication.

LETTER FROM DEL ESTE WATER COMPANY 1-36

A letter from Del Este Water Company and copy of an exhibit in connection with its hearing before the Public Utilities Commission showing its active services per mile was noted by the Council.

Copies of this report, the City Manager stated, are being distributed to the Council Committee and Water, Ruth & Going.

FINAL ADOPTION OF ORDINANCE NO. 271-C.S. RELATING TO PEDDLERS 1-46

ORDINANCE NO. 271-C.S. entitled

"AN ORDINANCE AMENDING SECTION 4-7.403 OF ARTICLE 4 OF CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE RELATING TO PEDDLERS"

introduced on November 19, and having been printed and published as required by the charter and coming on for final consideration was moved and adopted.

Moved by Robinson      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None              Absent: Mayor Marks

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APPROVE AGREEMENT WITH MODESTO MERCHANTS ASSOCIATION, DOWNTOWN DIVISION  
IN REGARD TO CHRISTMAS DECORATIONS 1-62

RESOLUTION NO. 58-382

A RESOLUTION APPROVING AGREEMENT WITH THE MODESTO MERCHANTS ASSOCIATION  
DOWNTOWN DIVISION FOR INSTALLATION OF CHRISTMAS STREET DECORATIONS

Introduced by Robinson      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

Councilman Arata reported that he had received complaints on  
the type of decorations as they were not visible at night.

Director of Public Works Ray reported that new state requirements  
prohibited the type formerly used.

APPROVE AGREEMENT WITH MASONIC CEMETERY ASSOCIATION RE: CHAIN LINK  
FENCE AT THOMAS B. SCOTT PARK 1-92

RESOLUTION NO. 58-383

A RESOLUTION APPROVING AGREEMENT WITH THE MASONIC CEMETERY ASSOCIATION  
FOR INSTALLATION OF CHAIN LINK FENCE AT THOMAS B. SCOTT PARK

Introduced by Robinson      Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

APPROVE SALE OF "B" ADDRESSOGRAPH PLATES TO ALLEN J. STEDJEE 1-106

RESOLUTION NO. 58-384

A RESOLUTION APPROVING THE SALE OF SURPLUS "B" ADDRESSOGRAPH PLATES TO  
ALLEN J. STEDJEE FOR THE PRICE OF \$3.50 PER THOUSAND

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

EXTEND THE TIME FOR THE CONTRACTOR TO COMPLETE IMPROVEMENTS IN IMPROVE-  
MENT DISTRICT NO. 7 1-117

RESOLUTION NO. 926-S.P.

A RESOLUTION EXTENDING THE TIME FOR THE CONTRACTOR TO COMPLETE THE  
WORK AND IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 7

Introduced by Spaulding      Seconded by Adams  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

CLEAR CITY'S POSITION ON PROPOSAL FOR AVIATION GAS TAX 1-125

The City Manager reviewed the Council's expressed interest in a  
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proposed aviation gas tax. He stated it was being proposed that the funds derived from this tax revert back to the cities and counties on some basis to be established and used for airport improvements and if legally possible it might include some kind of support for public use of private airports. He reported that the League of California Cities had requested that the city's position be clarified at this time.

MOTION

That the city continue in the position of favoring an aviation gas tax.

Moved by Arata Seconded by Merrill Unanimously carried

SET TIME FOR HEARING ON APPLICATION OF LOIS L. LANE (RED TOP TAXI) FOR ONE ADDITIONAL TAXICAB 2-17

The City Manager reported receipt of an application from Lois L. Lane, operating the Red Top Taxi for permit to operate one additional taxicab.

RESOLUTION NO. 58-385

A RESOLUTION SETTING THE TIME AND PLACE FOR THE PUBLIC HEARING ON THE APPLICATION OF LOIS L. LANE, DOING BUSINESS AS RED TOP TAXI FOR PERMIT TO OPERATE ONE ADDITIONAL TAXICAB

Introduced by Merrill Seconded by Arata  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None Absent: Mayor Marks

The time set was 4:30 P.M., December 3 in the Council Chamber.

APPROVE AGREEMENT WITH STATE OF CALIFORNIA, CALIFORNIA DISASTER OFFICE 2-25

The City Manager reported that the State was handling the distribution of civil defense surplus property. Under a new policy there will be a 10% service and handling charge in order to place the program on a self-supporting basis. He recommended the approval of an agreement.

RESOLUTION NO. 58-386

A RESOLUTION APPROVING AGREEMENT BETWEEN THE CITY OF MODESTO AND STATE OF CALIFORNIA, CALIFORNIA DISASTER OFFICE.

Introduced by Adams Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None Absent: Mayor Marks

AUTHORIZE SIGNATORY OFFICIALS ON APPLICATIONS AND ACKNOWLEDGEMENTS OF RECEIPT OF PROPERTY 2-32

RESOLUTION NO. 58-387

A RESOLUTION APPOINTING THE CITY MANAGER AND ASSISTANT CITY MANAGER AS

**SIGNATORY OFFICIALS FOR WAREHOUSE ISSUE SHEET OF THE CALIFORNIA STATE EDUCATIONAL AGENCY FOR SURPLUS PROPERTY**

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

SET DATE FOR PUBLIC HEARING ON PROPOSED ZONING TEXT AMENDMENTS 2-37

The City Manager noted that copies of the proposed amendments in the zoning text had been previously distributed to the Council members.

The City Clerk recommended that 5:15 P.M. December 17 in the Council Chamber be set as the time and place for the public hearing on the proposed amendments.

**RESOLUTION NO. 58-388**

**A RESOLUTION SETTING THE DATE OF DECEMBER 17, 1958 AT 5:15 P.M. IN THE COUNCIL CHAMBER, MCHENRY PUBLIC LIBRARY, 14TH AND I STREETS, AS THE TIME AND PLACE FOR A PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE ZONING REGULATIONS, CITY OF MODESTO**

Introduced by Spaulding      Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
        Hammond  
Noes: None                      Absent: Mayor Marks

SECOND PUBLIC HEARING ON GENERAL PLAN TO BE HELD ON DECEMBER 1 AT M.I.D. AUDITORIUM 2-56

The City Manager reminded the Council members that the second public hearing would be held on December 1 at 8:00 P.M. in the M.I.D. Auditorium on the general plan. The City Clerk was directed to send a written notice of the meeting to the members and also to phone them immediately prior to this date.

APPROVE WATER SERVICE TO PROPOSED 10 ACRE SUBDIVISION 2-57

The City Manager reported on the request for city sewer and water service received from Arthur J. Wylie for a 10 acre subdivision (44 residential lots) located on the corner of Edison and El Vecino Avenue.

The subdivision is located close to the present city limits but not contiguous to the city's water system and is presently served by Del Este Water Company. The subdivider is willing to participate to the extent of \$2,000 in the approximate cost of \$3,000 to construct a 6" water line. The annual anticipated minimum revenue from the area would be in the order of \$1,584 after the subdivision is fully developed. The subdivision is to be annexed, the City Manager reported, and recommended that the offer be accepted.

**MOTION**

That the line be constructed with the city and subdivider participating in the cost as outlined by the City Manager.  
Moved by Arata      Seconded by Merrill      Unanimously carried



ITEM NOT ON AGENDA-REQUEST BY SALVATION ARMY TO USE PARKING SPACE  
IN FRONT OF KRESS' STORE TO PARK KETTLE 3-32

With the unanimous consent of the Council, Commanding Officer Kenneth Hodder of the Salvation Army was permitted to present a matter not on the agenda-----use of parking space on 10th St. in front of Kress' Store for parking of Christmas kettle house.

Due to the public congestion on the sidewalk which would occur in front of the store door where it was proposed to locate the Christmas kettle house, conflict with the Store's drop awning, and damage to the house from cars parking in the street, Lt. Hodder asked for permission to place the house in the parking space in front of the store instead of on the sidewalk as proposed.

The City Manager stated that there would be no particular objection from the standpoint of use of the parking space and no precedent established.

MOTION

That the Salvation Army be granted permission to use parking space No. 24 in front of Kress' beginning November 29 and ending December 24 on a 24 hour basis providing the Army works out arrangements with the Police and Traffic Departments for properly marking the house at night.

Moved by Spaulding      Seconded by Merrill      Unanimously carried

Lt. Hodder stated the Army would remove the debris from the street area around the house since it would be impossible for the street sweeper to sweep the street.

REPORT ON YOUTH CENTER 3-70

The City Manager read a report dated November 26, prepared by the Director of Parks and Recreation Lloyd T. Lowrey, as requested by the Council, on "Report on L. J. Maddux Youth Center", a copy of which is on file with the records of this meeting.

A report on the legal status of the Center prepared by the City Attorney, as requested by the Council, was also read. The report indicated that there was a definite moral obligation on behalf of the City to those who contributed and worked for the purpose for which it was designed. From a legal point of view, however, he considered, there was nothing in the record which would prohibit the city from utilizing the Maddux Youth Center building for any purposes which are consistent with public park purposes so long as they are for the use and benefit of the entire people of the city.

Comments from the Council members:

Councilman Robinson expressed appreciation for the thorough report. He pointed out that the Center was like many other public projects where the bad things received the publicity and the good were expected and considered the normal and did not receive publicity. The number of young people participating in the programs at the center will do an enormous lot of good for the community.

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Councilman Spaulding reported that he had inspected the Center and believed that it contributed to the general good of the community. He pointed out that there would normally be some disturbance in any operation of this nature. He considered that the Department was doing a good job at the center and that he would personally dislike to see the program slowed down in any way. The Council should give all possible support and if more help is needed, it should be provided, if there was a policing problem the Police Department could be called on. He stated that he was really behind the staff in their job and considered they were doing a real service to the community.

Councilman Arata considered that the main problem was from disturbances created outside in the park area.

Mr. Lowrey reported that the possibility of hiring the Merchant Patrol for policing the outside of the center was discussed. The problem of hiring the Patrol was that if any disturbance did occur the City Police would have to be called in any event. Chief Bowers has reviewed his records on calls from the Center and finds them to be minor, as compared to other dance halls. He has indicated that anytime the Recreation Department needs help the Police Department will cooperate. On this basis, Mr. Lowrey continued, it is recommended that the Recreation Department proceed with its present forces unless something else is required.

Councilman Adams stated that the report removed a lot of rumors and fears and suggested that this type of report should be prepared periodically, perhaps quarterly.

Mr. Lowrey introduced members of the staff carrying on the program at the Center. Mary Grogan, Recreation Superintendent in charge of the Youth Center Activity, spoke briefly expressing the appreciation of the Youth for the program conducted at the center.

Mayor Pro Tempore Hammond expressed appreciation for the report. He pointed out that the Council should stress the importance to the citizens of the community that they have a right to come before the Council and bring up any matters.

The City Manager stated that the staff would be glad to answer any questions of those people who are concerned about the program.

#### REPORTS ON STREET IMPROVEMENTS 4-115

Reports were submitted by the City Manager on the following:

- "Program for Resurfacing of Paved Streets-1958";
- "Street Improvement by Construction or Reconstruction during 1958";
- "Street Reconditioning Program-1958".

Copies of these reports had been previously distributed to the Council members.

REPORT ON WATER PIPE INSTALLATION AT DRYDEN PARK MUNICIPAL GOLF COURSE 4-120

Director of Public Works Ray reported on the progress being made by the volunteer workers in the installation of water pipe at the Dryden Park Municipal Golf Course. Work was started on Saturday, November 20, about 2000 feet of 8" and 6" transit pipe was installed and 18 workers participated. The pipe has been tested and there are no leaking joints. The "best" volunteer worker, Mr. Ray stated, was Councilman Merrill Adams.

Councilman Adams commended the volunteer workers from the Golf Club and from city employees.

CITY MANAGER GRANTED PERMISSION TO RAISE MATTERS NOT ON THE AGENDA 5-42

With the unanimous consent of the Council, the City Manager was granted permission to bring up two matters not on the agenda-----  
1) report on city employees' participation in the United Crusade and  
2) his absence from the city to attend the American Municipal Association conference.

City employees exceeded their goal by 5% and contributed \$2,098.82. 86.5% of the employees contributed to the United Crusade Campaign.

The City Manager reported that as authorized by the Council, he would be absent from the city for a portion of next week to attend the conference in Boston.

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Arata      Seconded by Spaulding      Unanimously carried

The meeting was adjourned at 8:37 P.M.

ATTEST:   
City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Hammond, Merrill, Spaulding,  
Mayor Marks

Absent: Councilmen: Robinson

The pledge of allegiance to the flag was given by all those present.

Rev. John Becker, pastor of the Geneva Presbyterian Church, gave the invocation.

PUBLIC VOTE OF CONFIDENCE TO MAYOR HARRY MARKS 1-27

Councilman Spaulding was given unanimous approval of the Council to introduce Cliff Annan, former member of the City Council.

Mr. Annan stated that some of the true friends of Mayor Marks had come down to this meeting to commend him for his devotion to his duties as Mayor of the City of Modesto, and his utter fearlessness in his job during the years of his service. He pointed out that Mayor Mark's sole interest in staying on the job was for the progress and welfare of the city. He stated, "it gives me a great deal of pleasure on behalf of the citizens of this city to thank you most sincerely from the bottom of our hearts for the great job you have done."

There was a prolonged applause by the audience. Mr. Annan asked that Mayor Marks step down from his chair to the Council floor so that the people in the audience could shake his hand.

Mayor Marks stated, "I just want you to know that I love this city and everything that I have done in the past years has been because of my love for this city and the duty it imposed. I believe honestly that this is not the end of the line and I have deep faith in the principles of justice, truth and equality before the law. I wish I could tell you how grateful I am to all of you."

Approximately 150 persons filed by and shook hands with Mayor Marks.

RESOLUTION OF COMMENDATION TO MAYOR HARRY MARKS 2-15

With the unanimous consent of the Council, Councilman Spaulding read the following resolution into the records of the meeting:

RESOLUTION NO. 58-390

A RESOLUTION COMMENDING MAYOR HARRY MARKS FOR OUTSTANDING SERVICES RENDERED TO THE CITY OF MODESTO AS ITS MAYOR

"WHEREAS, Harry Marks was elected Mayor of the City of Modesto

on April 10, 1951, following the adoption of a new City Charter by the people of Modesto, and

"WHEREAS, Harry Marks was re-elected Mayor of the City of Modesto without opposition on April 12, 1955, and

"WHEREAS, Harry Marks has devoted countless hours of his time and efforts in contributing to the general welfare of this community, improving the level of governmental services rendered to the people and assisting in the establishment of more efficient and economical governmental services, and

"WHEREAS, Harry Marks as Mayor was instrumental in achieving the recognition of the City as an All America City in 1954, and

"WHEREAS, Harry Marks has served this community as its Mayor in an outstanding manner, and has been a devoted and sincere public servant for approximately 8 years,

"NOW, THEREFORE, BE IT RESOLVED that this Council, on its own behalf, and on behalf of the citizens of this City, hereby express its sincere appreciation to Mayor Harry Marks for his outstanding service to the community as Mayor.

"BE IT FURTHER RESOLVED that this Council express its full and complete confidence in Harry Marks as its Mayor, and

"BE IT FURTHER RESOLVED that the City Clerk be directed to furnish a suitably inscribed certified copy of this Resolution to Mayor Harry Marks in recognition of his outstanding service as Mayor."

Councilman Spaulding moved its adoption, which motion was seconded by Councilman Merrill.

Mayor Marks stepped down from his chair and Mayor Pro Tempore Hammond took over.

Ayes: Councilmen: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None Absent: Robinson, Mayor Marks

At the urging of members of the Council, Mayor Marks who was deeply moved by the action taken, left the meeting at this time.

REPORT ON USE OF OLD M.I.D. BUILDING BY COUNTY 2-40

Mayor Pro Tempore Hammond, member of the Council Committee, reported that the Committee recommended because the City of Modesto was part of the County of Stanislaus, that at the end of the lease (May 31, 1959) between the City and County for the old M.I.D. building, the monthly rental fee of \$300 be discontinued and the county be required to only pay the damages which the contractor requires to complete the parking garage at a date later than the City hall.

## MOTION

That the monthly rental fee of \$300 for the old M.I.D. building be waived after the termination of the present lease (May 31, 1959) and the County be required to pay only the damages required in the City Hall contract for the later completion of the parking garage.

Moved by Hammond    Seconded by Merrill    Unanimously carried

Councilman Arata stated that he voted in favor of the motion although he had been opposed to the renting of the building, to the county, for the reason that he hoped it would create better relations between the county and city.

Ed Hane, Chief Administrative Officer of Stanislaus County, expressed appreciation for the action taken by the Council.

LETTER FROM STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL RE: APPLICATION OF ELMER NORWOOD FOR ALCOHOLIC BEVERAGE LICENSE AT 1007 YOSEMITE AVENUE 2-62

The letter was read and ordered filed. The letter advised that if the department denied the application the applicant may request a hearing and at this time the City's protest would be considered

AWARD BID FOR DEEP WELL IN MCHENRY VILLAGE AREA TO OSTERBERG AND CARROLL 2-68

## RESOLUTION NO. 58-391

A RESOLUTION ACCEPTING THE BID OF OSTERBERG & CARROLL FOR DRILLING AND DEVELOPING OF DEEP WELL FOR THE CITY OF MODESTO (McHenry Village Area)

Introduced by Adams    Seconded by Arata  
Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                    Absent: Robinson, Mayor Marks

Director of Public Works estimated that the cost would be between \$3,000 to \$4,000.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BID INSTALLATION OF FOUR STREET LIGHTS IN WESTLAND MANOR NO. 2 2-86

## RESOLUTION NO. 58-392

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR CONSTRUCTION OF STREET LIGHTING SYSTEM IN WESTLAND MANOR NO. 2 SUBDIVISION

Introduced by Merrill    Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
Noes: None                    Absent: Robinson, Mayor Marks

The time set for opening of bids was 2:00 P.M. December 15.

ADD SECTION TO MUNICIPAL CODE ENTITLED "APPROVAL OF STATE DEPARTMENT OF PUBLIC WORKS" RELATING TO TRAFFIC REGULATIONS 2-92

## ORDINANCE NO. 272-C.S. entitled

"AN ORDINANCE ADDING SECTION 3-2.815 TO ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE ENTITLED "APPROVAL OF PUBLIC WORKS" RELATING TO TRAFFIC REGULATIONS"

was introduced and ordered printed and published as required by the Charter.

Moved by Spaulding      Seconded by Adams  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                  Absent: Robinson, Mayor Marks

ACCEPT SIDEWALKS IN WHITMORE PARK FROM ALLIED CONCRETE AND SUPPLY COMPANY 2-100

The City Manager reported that the sidewalks in Whitmore Park had been completed by the contractor, Allied Concrete and Supply Company. He recommended acceptance, authorization of payments due and recordation of notice of completion with the County Recorder.

## RESOLUTION NO. 58-393

A RESOLUTION ACCEPTING THE CONSTRUCTION OF CONCRETE SIDEWALK IN WHITMORE PARK BY ALLIED CONCRETE AND SUPPLY COMPANY; AUTHORIZING PAYMENT OF AMOUNT DUE AND RECORDATION OF NOTICE OF COMPLETION WITH THE COUNTY RECORDER

Introduced by Spaulding      Seconded by Arata  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                          Absent: Robinson, Mayor Marks

APPROVE PURCHASE OF ADDITIONAL PROPERTY FROM HORACE DRYDEN FOR CLUBHOUSE AREA AT DRYDEN PARK MUNICIPAL GOLF COURSE 2-105

The City Attorney presented for Council approval an emergency ordinance authorizing the purchase of property for the sum of \$10,000 from Horace Dryden to be used for clubhouse purposes at the Dryden Park Municipal Course. The emergency provision is necessary because of the time limit, he stated.

## ORDINANCE NO. 273-C.S. entitled

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM HORACE W. DRYDEN AND DOROTHY DRYDEN"

was adopted and ordered printed and published as provided by the Charter.

Moved by Arata                  Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                          Absent: Robinson, Mayor Marks

The City Manager reported that a minor adjustment in the northern boundary at the east end had been made but the same amount of land was involved.

REQUEST COUNTY CANCEL TAXES ON GARRISON PARK PROPERTY 2-124

RESOLUTION NO. 58-394

A RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF STANISLAUS COUNTY TO CANCEL CITY AND COUNTY TAXES ON PROPERTY OWNED BY THE CITY OF MODESTO

Introduced by Spaulding      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                      Absent: Robinson, Mayor Marks

GRANT ENCROACHMENT PERMIT TO HAIG BERBERIAN TO INSTALL GASOLINE PUMP AND UNDERGROUND STORAGE TANK ON 10TH STREET BETWEEN C AND D STREETS 2-127

Director of Public Works Ray reported on the request of Haig Berberian for an encroachment permit to install a 550 gallon underground gas storage tank and a pump to service its lift trucks. The location of the pump and tank would be immediately adjacent to the end of a 8 foot wide raised loading and unloading ramp which presently encroaches on Tenth Street within the sidewalk area.

He recommended approval of the encroachment permit on a 1) revocable basis with a 30 days notice, 2) removal of equipment upon request and return of the street surface to its present condition, 3) permittee to indemnify the city and save it harmless from any damages or claims resulting from the use of the premises for this purpose and defend any law suits which might arise out of this encroachment; 4) that the tank would not encroach upon the city right of way more than 8 feet; 5) the gasoline pump not to encroach more than 36 inches from the wall of the building and 6) entire installation be in accordance with codes and standards governing the same.

RESOLUTION NO. 58-395

A RESOLUTION GRANTING A TEMPORARY ENCROACHMENT PERMIT TO HAIG BERBERIAN TO LOCATE A GASOLINE PUMP AND UNDERGROUND STORAGE TANK ON 10TH STREET BETWEEN C AND D STREETS IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE DIRECTOR OF PUBLIC WORKS AS OUTLINED IN HIS MEMORANDUM OF DECEMBER 3, 1958

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                      Absent: Robinson, Mayor Marks

HEARING ON APPLICATION OF RED TOP TAXI COMPANY TO OPERATE ONE ADDITIONAL TAXICAB 3-24

Mayor Pro Tempore Hammond declared that the hour of 4:30 P.M. had arrived, the time set by the Council for the public hearing on the application of Lois Lane, operating Red Top Taxi Company to operate one additional taxicab.

The report prepared by the Director of Parking and Traffic, copies of which were previously distributed to the members, was noted.

The City Clerk reported that all the local cab companies had been notified by letter of the scheduled hearing and no objections had been filed.

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The City Manager recommended that the request be approved.

Mayor Pro Tempore Hammond asked if there were any oral protests or if anyone wished to make any comments. No protests were filed or comments made. Mayor Pro Tempore Hammond declared the hearing closed.

RESOLUTION NO. 58-395

A RESOLUTION GRANTING THE REQUEST OF LOIS L. LANE DOING BUSINESS AS RED TOP TAXI, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE ONE ADDITIONAL TAXICAB IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Merrill, Spaulding, Mayor Pro Tempore Hammond  
 Noes: None                  Absent: Robinson, Mayor Marks

The City Attorney reported that the granting of an additional taxicab stand would be handled by the Director of Parking and Traffic as provided by the traffic regulations of the Municipal Code.

FURTHER CONSIDERATION OF ESTABLISHING NO PARKING ZONES AT INTERSECTIONS  
3-38

Further consideration was given by the Council to the possible establishment of no-parking zones at intersections, as outlined in the report to the City Manager from the Director of Parking and Traffic, dated August 14, 1958. Maps indicating the intersections which would be affected were displayed.

Councilman Adams stated that in view of the safety features involved, the program would be advisable.

Mayor Pro Tempore Hammond stated that he could appreciate the value of such a program but objected on the grounds that the locations were in a low traffic density area and the city should not continually adopt regulations which would hamper and restrict citizens of the city.

The City Manager stated that, technically, the zones could be established without Council action but the staff desired guidance from the Council as substantial areas would be affected. It is being proposed, not to hamper people, but to protect them. While some parking spaces would be lost, he stated, most of them would be in areas where parking demand is not high. This could be weighed against the added safety to the pedestrians.

Councilman Spaulding wondered if it was necessary to put the entire program in at one time instead of selecting a particular critical intersection.

Councilman Arata was not in favor of eliminating any parking spaces at this time.

Councilman Merrill suggested going slow and establishing no parking zones at an intersections as situations arise, instead of an over-all program at one time.

The general tenor of the Council was summed up by the City Manager as follows: that at this time it would not appear to be wise to proceed on the over-all scale as set forth in the report but if there

are some special places where there are special problems the staff could act on them, or if there were some unusual problems the matter would be brought back to the Council for further guidance.

FURTHER CONSIDERATION OF LENGTHENING OF PARALLEL ON-STREET PARKING SPACES 3-114

Further consideration was given to the report dated November 12, 1958, from the Director of Parking and Traffic to the City Manager on "Length of On-street Parallel Parking Stalls".

Councilman Arata objected to making too many changes in the length of the parking spaces as he believed that the automobile manufacturing companies would be shortening the cars from this year on. He considered that the percentage of persons having difficulty in parking their cars was minor. He was not in favor of reducing the number of parking spaces at this time.

The City Manager suggested that a 21' platoon system might be approved as it would result in the loss of only two parking spaces.

Director of Parking & Traffic Carmody estimated that the cost of this program would be approximately \$3,000.

MOTION

That the staff be authorized to proceed on the 21' platoon parking program as set forth in the report of the Director of Parking and Traffic.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

REPORT FROM PLANNING COMMISSION ON SECOND PUBLIC HEARING ON THE GENERAL PLAN 4-06

Director of Planning Smeath reported that the second public hearing on the General Plan was held by the Modesto City Planning Commission on Dec. 1 and attended by approximately 50 persons. The matter of the Yosemite Boulevard freeway and major street problems was discussed. The Commission has now instructed the staff to work with the County, Ceres and Empire representatives to clear out some final matters before it takes action on referring the plan to the Council for final action.

ACCEPTANCE BY TIDEWATER SOUTHERN RAILWAY CO. OF CITY'S PROPOSAL TO SIGNALIZE ORANGEBURG AVENUE CROSSING 4-20

The City Manager reported receipt of a copy of a letter sent by Tidewater Southern Railway Co. to Public Utilities Commission advising that due to the unusual factual situation existing in connection with the crossing at Orangeburg Avenue it would be willing to participate in the cost of installation of two standard No. 8 signals on a 50-50 basis with the City of Modesto. The cost of the signals, the City Manager reported, would be approximately \$12,000, the city's cost \$6,000 and one half of this cost would be reimbursed to the city by the state on the grade crossing protection fund, making a net cost to the city of \$3,000.

## MOTION

That the staff be authorized to prepare the necessary documents.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

CITY ATTORNEY TO BE ABSENT FROM CITY ON FRIDAY, DECEMBER 5      4-36

The City Manager reported that the City Attorney had advised he would be absent from the city on Friday, December 5.

NOTICE OF PUBLIC UTILITIES COMMISSION HEARING RE: INCREASE IN INTRA-STATE AIR PASSENGER FARES      4-39

The Council noted the notice. No action was taken by the Council.

ANNEXATION OF AIRPORT PROPERTY TO CITY OF MODESTO      4-43

With the unanimous consent of the Council, Councilman Arata raised a question about the progress being made in the annexation of the airport property to the city in order to avoid paying county taxes.

The City Manager stated that the deadline date was being watched and the staff was working in advance of it. He asked Councilman Arata to check the matter with him at his office. The legal problem of annexing an area without a road connection had not yet been cleared.

REPORT ON ANNEXATION OF TIDEWATER INDUSTRIAL AREA      4-57

With the unanimous consent of the Council-----the City Manager reported that the annexation of the Tidewater Southern Railway Company's industrial area located in South Modesto area was now being put into final shape.

REPORT ON MCHENRY AVENUE WIDENING PROGRAM      4-57

With the unanimous consent of the Council, the City Attorney reported that progress was being made and it now appeared that by the time of the hearing on December 10, the Alma Avenue matter will be settled. Other parcels now pending will also be cleared. The Council should consider the adoption of the resolution providing for condemnation proceedings at the hearing if these matters are all cleared, he pointed out. The City Manager stated that he would make a report to the Council on this matter.

REPORT ON PROGRESS AT THE DRYDEN PARK MUNICIPAL GOLF COURSE      4-67

With the unanimous consent of the Council, Director of Public Works Ray reported on the progress being made by the volunteer workers at the Dryden Park Municipal Golf Course. He stated that during the last week end the volunteers laid over 6770 lineal feet of 4" and 6" pipe. Over 8000 feet of the big pipe has now been installed, leaving 7000 more feet to go.

Mr. Ray reported that some of the volunteer work was being done by non-golfers.

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Adams    Seconded by Spaulding    Unanimously carried

The meeting was adjourned at 4:56 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

Modesto City Council  
December 10, 1958

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Adams, Arata, Merrill, Spaulding, Mayor Marks

Absent: Councilmen: Hammond and Robinson

Councilman Hammond arrived at 7:35 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. A. P. Gregory gave the invocation.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of November 19, 26 and December 3, and the same being available for public inspection and there being no objections, the minutes were approved.

#### PETITION FILED BY PROPERTY OWNERS OBJECTING TO LIMITED PARKING ON MCHENRY AVENUE BETWEEN JONES STREET AND NEEDHAM STREET 1-10

Dr. W. E. Soper, 120 McHenry Avenue filed a petition signed by 8 property owners in the first block on McHenry Avenue objecting to limited on-street parking in front of their stores and offices which had been established in Resolution No. 58-375 adopted by the Council on November 19.

After a general discussion the Council concluded that it would not be desirable to change the parking regulations on McHenry Avenue because the widening program was progressing at such a rate that it would be only a short time before the construction work would be started.

#### RESOLUTION NO. 58-397

A RESOLUTION RESCINDING RESOLUTION NO. 58-375 "A RESOLUTION ESTABLISHING NO PARKING DURING SPECIFIED HOURS ON THE EASTERLY CURB OF MCHENRY AVENUE BETWEEN DOWNEY STREET AND JONES STREET AND ON THE WESTERLY CURB OF MCHENRY AVENUE BETWEEN NEEDHAM STREET AND JONES STREET IN THE CITY OF MODESTO"

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

LETTER FROM STATE DEPARTMENT OF PUBLIC HEALTH DECLARING STANISLAUS COUNTY TO BE A RABIES AREA EFFECTIVE DECEMBER 20, 1958 2-10

12-10-58

Page 1

City Manager Ross Miller briefed a letter from the State Department of Public Health declaring Stanislaus County to be a rabies area. He reported that Dr. Robert Westphal, City Health Officer, had advised that in one respect the city code exceeds the minimum requirement of the state in that inoculation is required every 24 months to tie in with the license period as compared to the state standard of 30 months. The state requires all dogs over the age of four months to have rabies immunization and the city after five months of age. Dr. Westphal recommends the city regulations be amended to comply with the more restrictive state regulation. The local veterinarians concur in these recommendations and have indicated their willingness to continue assistance to the County with inoculation clinics.

The City Manager stated that an ordinance would be presented to the Council for consideration at a later date changing the age for immunization to four months.

The Council did not indicate any change in its policy on non-participation in the inoculation clinics.

REQUEST FROM J. L. WALLACE TO DRILL WELL 2-40

J. L. Wallace, 709 McHenry Avenue, Distilled Water operator, requested permission, as provided by Section 5-1.501, to relocate the well on his property due to the McHenry Avenue widening program.

The City Manager recommended approval of the request provided Mr. Wallace will dedicate the necessary right of way, and the well be constructed in accordance with the State and local health standards and regulations.

RESOLUTION NO. 58-398

A RESOLUTION GRANTING PERMISSION TO J. L. WALLACE TO DRILL WELL ON HIS PROPERTY LOCATED AT 709 MCHENRY AVENUE, IN THE CITY OF MODESTO, UNDER CERTAIN CONDITIONS

Introduced by Merrill      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

AUTHORIZE CITY ENTER SAFETY CONTEST 2-52

The City Manager reported that the League of California Cities and the State Compensation Insurance Fund would again co-sponsor a safety contest for all California Cities. While Modesto did not win any prizes in last year's contest and was 8th in its group size, he stated, it would be desirable for the city to again enter the contest.

MOTION

That the staff be authorized to send in the necessary documents to enter this contest for the period July 1, 1958 to June 30, 1959.

Moved by Merrill      Seconded by Spaulding      Unanimously carried

AUTHORIZE CALL FOR BIDS FOR GASOLINE DURING 1959 2-60

RESOLUTION NO. 58-399

A RESOLUTION AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING GASOLINE DURING THE PERIOD FROM JANUARY 16, 1959 to JANUARY 15, 1960 INC.

Introduced by Merrill      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

The time set for opening the bids was January 5 at 2 P.M.

FINAL ADOPTION OF ORDINANCE NO. 272-C.S. AMEND CODE RELATING TO TRAFFIC REGULATIONS 2-63

ORDINANCE NO. 272-C.S. entitled

"AN ORDINANCE ADDING SECTION 3-2.815 TO ARTICLE 8 OF CHAPTER 2 OF TITLE III OF THE MODESTO MUNICIPAL CODE ENTITLED 'APPROVAL OF STATE DEPARTMENT OF PUBLIC WORKS' RELATING TO TRAFFIC REGULATIONS"

introduced on December 3 and having been printed and published as required by the Charter and coming on for final consideration was moved and adopted.

Moved by Arata      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

RESOLUTION APPROVING LEASE AGREEMENT WITH STATE AT AIRPORT 2-66

RESOLUTION NO. 58-400

A RESOLUTION APPROVING LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STATE OF CALIFORNIA FOR TIE-DOWN SPACE AT THE MODESTO CITY-COUNTY AIRPORT

Introduced by Arata      Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

APPROVE FINAL MAP OF SHERWOOD COURT TRACT 2-72

RESOLUTION NO. 58-401

A RESOLUTION APPROVING THE FINAL MAP OF THE SHERWOOD COURT TRACT OF THE CITY OF MODESTO

Introduced by Spaulding      Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                      Absent: Robinson

ACCEPT RIGHT OF WAY AGREEMENTS FOR WIDENING MCHENRY AVENUE 2-85

Right of way agreements for the widening of McHenry Avenue from Ernest F. Soderstrom et ux and Goldie E. Lutz were presented and explained for Council acceptance.

RESOLUTION NO. 58-402

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Arata           Seconded by Adams  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None                   Absent: Robinson

ORDINANCE AUTHORIZING PURCHASE OF LAND FROM KENNETH DURAND FOR GOLF COURSE PURPOSES

The City Manager reported that in accordance with the option between the city and Kenneth Durand for the purchase of real property to be used in the construction of the new 18 hole golf course, the necessary documents had been prepared to purchase parcels C and D for the sum of \$40,000.

..... Terms of the agreement were outlined by the City Attorney.

ORDINANCE NO. 274-C.S. entitled

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM KENNETH H. DURAND AND GLADYS S. DURAND"

was introduced and ordered printed and published as required by the Charter.

Moved by Arata           Seconded by Hammond  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None               Absent: Robinson

ORDINANCE APPROVING AGREEMENT WITH HORACE W. DRYDEN FOR PURCHASE OF PROPERTY 2-105.

The City Manager reported that after further discussion with Mr. Dryden and the S. O. S. Club it was determined that the east boundary line of the property, as approved by Ord. 273-C.S. adopted on December 3, was too close to a building on his property. A new ordinance and agreement has been prepared which will extend a portion of the boundary eastward 120 feet. It will not change the plans for the golf course, he stated, and he recommended it on this basis.

The City Attorney pointed out that the ordinance included a declaration of emergency provision in order to "promote the public peace, health, safety and general welfare of the citizens of Modesto", and Ordinance No. 273-C.S. will be rescinded.

The City Attorney reported that the agreement was a three party agreement between Mr. Dryden, City of Modesto and S. O. S. Club.

ORDINANCE NO. 275-C.S. entitled

"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE CITY OF MODESTO FROM HORACE W. DRYDEN AND DOROTHY DRYDEN"

was adopted and ordered printed and published as provided by the Charter.



Mr. Ray suggested the desirability of completing the McHenry Avenue negotiations and determining how it develops before any further action is taken on Yosemite Boulevard other than a general approval of plans for drainage.

4- Northwest Modesto area: (map on page 9)  
Recommendation:

"That the City retain competent consultants to study the alternate methods of storm water disposal outlined in this report for the Northwest Modesto area producing a recommendation for the use of one method complete with cost estimates. Upon concurrence by the City Council, consultants may be authorized to prepare detailed plans and specifications for a drainage district. It is suggested that both phases of this work be financed through loans from the Federal Housing and Home Finance Agency."

The City Manager stated that the federal loans are repayable only upon actual construction of the project, and recommended that the city utilize this means to start this improvement. The City Manager answered a question raised by Councilman Hammond that there would be no reason why the planning for this district could not be moving concurrently with other districts and be financed by federal funds.

Amos Bomberger, residing in this area, considered it was the most critical area in the entire city at the present time. He asked if anything was being done to forestall a similar situation in the north area on Tully Road where a great deal of subdivision was taking place.

Mr. Ray stated that there would be a severe problem in this area as the soil conditions were worse, but the drainage would not cross the canal. He stated that the department considered that the Northwest area, the Central part of the city, the North Central and the Northeast areas were the most critical but all the other areas were critical also from the standpoint of maintenance and improvement of streets.

By the use of additional personnel through consultants or otherwise, several of the most critical areas can proceed concurrently because the cost of each is assessed to its own particular district and is not a city wide proposition.

Councilman Hammond suggested that as the city was progressing reasonably well on the McHenry Avenue project all of the city's activities and efforts should be to complete all this drainage district area before efforts are disbursed to other areas. Paper work, however, can be proceeding on the other areas, he considered.

5- Sunrise and Coffee Districts: (map on page 7)  
Recommendation:

"That further action be deferred until such time as development of these areas warrants installation of storm drainage facilities."

6- East Orangeburg District: (map on page 8)  
 Recommendation:

"That further action be deferred until residents wish to install the storm drainage facilities necessary to connect with the McHenry Avenue trunk line."

Councilman Adams pointed out that the Council should make it plain to the people in these two areas that if they are interested in forming drainage districts, proceedings could be initiated. Mr. Ray stated that since the report was prepared some interest in this area has been expressed.

Mayor Marks pointed out that a critical problem was to secure the necessary rights of way for any future plans for drainage canals or whatever method is decided on before the land became unavailable. The plans should be crystalized now for guidance of the future Councils, he considered.

7- Westside District: (map on page 7)  
 Recommendation:

"That a post card poll be conducted among affected residents to determine if they are interested in an improvement district to bring up to adequacy the existing drainage system. Should the results of such a poll prove that an improvement is desired, a consultant should be retained to prepare plans financed through a Federal loan."

8- Downtown District: (maps pages 1 and 2)  
 Recommendation:

"That a consultant be retained to prepare plans for revision of the existing system in order to make it adequate, financing of the study to be made through a federal loan."

Financing of Program 5-3  
 Recommendation:

"That a special committee be designated to immediately undertake an exhaustive investigation of the various financing alternatives available and desirable. The objective should be to correlate this study with the engineering studies proposed under the recommendations in order that a master plan for storm drainage improvements can be submitted to the people of this community as soon as possible."

Mr. Ray pointed out that federal loan funds would not be available when the work was done by city forces. He recommended that the engineering on all of the project be gotten underway because the staff is faced daily with questions about the plans from people who want drainage. The plans would then be available for the people in each district when and if they desired to form the district and undertake the improvement.

Two types of federal loans are available, Mr. Ray continued, 1) for preliminary plans and general engineering for projects to be undertaken within five years and 2) actual plans and specifications for a specific project to be started within two years.

Comments on the subdivision aspect of drainage were made by Planning Director Smeath. The Planning Commission has considered drainage in subdivisions for many years and the question is always raised-----where will the subdivision drain. At this point there is 507 acres of land under consideration for annexation. This kind of problem is a serious one and the earlier these drainage areas can be determined the better the Planning Commission can work with the other departments.

Mayor Marks stated that basically the subdividers had a right to know where they stand as well as the people to whom they sell the land.

Answering a question raised by Councilman Hammond, the City Manager pointed out that the areas proposed could include some properties not yet annexed to the city, as was done by the sanitary sewers.

Councilman Spaulding pointed out that the city's position on the entire program was to furnish the leadership and that it would be up to the people in the various districts to indicate their interest in solving their drainage problem by assuming the costs involved.

ACTION TAKEN BY COUNCIL 6-15

MOTION

That the recommendation in the Storm Drainage report for the North Central Drainage District and Northgate-Montgomery Village Area (Northeast Drainage District) be approved.

Introduced by Adams Seconded by Spaulding Unanimously carried

MOTION

That the use of the city's special improvement district counsel Eugene Sturgis for these two districts be approved.

Moved by Mayor Marks Seconded by Spaulding Unanimously carried

MOTION

That the recommendation in the Storm Drainage report for the LaLoma Drainage District be approved.

Moved by Merrill Seconded by Adams Unanimously carried

Mayor Marks stated that the Council must not lose site of the fact that until the city does have drainage there will not be any first class streets in the city.

The City Manager pointed out that the city was going to pay for the drainage anyway as the community was paying for it every day by increased costs of streets.

MOTION

That the recommendation in the Storm Drainage report on the Northwest Modesto Area be approved.

Moved by Spaulding Seconded by Mayor Marks Unanimously carried

12-10-58 Page 8

Answering a question raised by City Attorney Grimes, Mr. Ray stated that curbs and gutters were included in the plans and specifications for all these districts as they were the first link in drainage.

## MOTION

That the recommendation in the Storm Drainage report on the Sunrise and Coffee Districts be approved.

Moved by Adams    Seconded by Spaulding    Unanimously carried

## MOTION

That the recommendation in the Storm Drainage report on the East Orangeburg District be approved.

Moved by Merrill    Seconded by Arata    Unanimously carried

## MOTION

That the recommendation in the Storm Drainage report on the Westside District be approved.

Moved by Arata    Seconded by Merrill    Unanimously carried

Mr. Ray stated that the existing drains in this district were inadequate and did not cover the entire area.

## MOTION

That the recommendation in the Storm Drainage report on the Downtown District be approved.

Moved by Merrill    Seconded by Arata    Unanimously carried

COMMITTEE ON DRAINAGE PROGRAM 6-125

The City Manager recommended that the Storm Drainage Committee include citizens from the various districts. Amos Bomberger and Stanley Maurer indicated their willingness to serve on the committee from their district. Mayor Marks outlined the purpose of the committee and asked if any other persons from the audience would be willing to serve on the committee. No other offers were received.

Councilman Adams suggested that this committee consider, along with other alternatives for financing the program, his suggestion that the over-all costs of all the districts be combined and an equitable average charge be determined for an individual owner, based on the entire cost.

Mayor Marks asked the City Manager to submit, to him prior to January 5, a representative list of names of persons from the various districts who could serve on the committee.

## MOTION

That Mayor Marks be authorized to appoint a Storm Drainage Citizen Committee similar to the one appointed for the sewer program with equal representation from each district on the general committee.

Moved by Arata    Seconded by Spaulding    Unanimously carried

12-10-58 Page 9

Mayor Marks stated that he would present the committee list to the Council and it would be discussed further at that time.

Mayor Marks declared the informal hearing closed.

HEARING ON REZONING OF SECTION MAP 19 (SWOPE PROPERTY ON COLDWELL) 8-05

Mayor Marks announced that the hour of 8:30 P.M. had arrived, the time set for the hearing on the request of Lenora Swope for the reclassification from Multiple-Family Zone, R-3 and Neighborhood-Commercial Zone, C-1, to Light-Industrial Zone, M-1, the west 60 feet of Lot 18 of Evergreen Acres, being located on the north side of Coldwell Avenue, west of Tully Road.

The City Clerk filed a certification that the Notice of the hearing was published in the manner prescribed by law, that Notices were posted in the area, that Notices were mailed to property owners in the area and that no written protests had been filed.

Resolution No. 466, adopted by the Planning Commission on October 21, 1958 recommending to the Council that Section 19 of the Zoning Map be amended to conform with the request under certain conditions, was noted.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No comments were made and Mayor Marks declared the hearing closed.

Planning Director Smeath reported that at the direction of the Commission a further study of the entire general area had been made by the department and it is now the staff's recommendation that instead of rezoning the Swope property to M-1 lots 17, 18, 19, 20 and 21 of Block 901 be rezoned to C-M. This would mean a little different kind of use but all of the present uses are either residential or C-M. He pointed out that the Council had two options, 1) to proceed with the adoption of an ordinance at this time to rezone the property M-1, as requested and let the Commission consider the area as a whole and present it later for rezoning or 2) hold up the present request and wait for a further report from the Commission.

The City Attorney stated that the matter could be postponed but action must be taken by the Council within 40 days of the hearing date.

C. L. Houser, 909 Yale Street, appearing on behalf of Mrs. Swope, stated that she had planned to start construction after the first of the year. After private conference between Mr. Smeath and Mr. Houser it was determined that the proposed use of the property would fit in with the C-M zoning recommended.

Ted Gervais, 1351 Leonard Avenue, asked for information on the type of use proposed for the Swope property, before the Council approved the rezoning.

**MOTION**

That the Council withhold its decision until a further report is received from the Planning Commission.

Moved by Hammond      Seconded by Merrill      Unanimously carried

Police Chief Bowers pointed out the enforcement difficulties involved in special parking time limits.

MOTION

That the City Attorney prepare for Council consideration a resolution providing for the addition of one more 24 minute parking meter zone on the west side of 11th Street at the intersection of I Streets, operative between 9 A.M. and 6 P.M.

Moved by Merrill Seconded by Spaulding Unanimously carried

SET DATE FOR HEARING ON APPEAL OF JOHN QUARESMA FROM THE DECISION OF THE BOARD OF ZONING ADJUSTMENT FOR CONDITIONAL USE PERMIT 9-26

The City Manager reported that John Quaresma had filed a petition with the City Clerk appealing the decision of the Board of Zoning Adjustment denying him a conditional use permit to extend a commercial use into residentially zoned property on Tully and Roseburg Avenues. The City Clerk recommended that January 14 at 8:00 P.M. be set as the time for the hearing.

RESOLUTION NO. 58-403

A RESOLUTION SETTING THE TIME AND PLACE FOR THE HEARING ON THE APPEAL OF DECISION OF THE MODESTO CITY BOARD OF ZONING ADJUSTMENT DENYING A CONDITIONAL USE PERMIT TO JOHN QUARESMA FOR EXTENDING A COMMERCIAL USE INTO RESIDENTIALLY ZONED PROPERTY, SOUTHEAST CORNER OF ROSEBURG AVENUE AND TULLY ROAD

Introduced by Hammond Seconded by Spaulding  
Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
Noes: None Absent: Robinson

REQUEST FOR VARIANCE FILED BY SHELL OIL COMPANY 10-42

A letter from Shell Oil Company requesting a variance from the Municipal Code to permit the installation of three asphaltic driveways at its plant on 11th Street at B Street, was read.

As provided by Section 7-1.106 (Appeals) of the Municipal Code, the date of December 17 was set as the time for hearing the appeal.

APPOINT MEMBER TO STANISLAUS CITIES-COUNTY PLANNING ADVISORY COMMITTEE

Councilman Spaulding advised that due to business commitments he would be unable to attend meetings of this Committee as they were usually held on Thursday nights and out of the city. He asked to be replaced as alternate on the committee.

MOTION

That Councilman Hammond be appointed alternate on the Stanislaus Cities-County Planning Advisory Committee.

Moved by Merrill Seconded by Adams Unanimously carried

HOLD OVER HEARINGS ON CLOSING OF ALLEY IN McHENRY AVENUE-ALMA AVENUE AREA 8-120

The City Manager reported completion of the preparation of agreements for the closing of the alley and that they were now in the hands of the property owners for execution. He asked that the hearing be extended for one week.

## MOTION

That the hearing be held over until 4:45 P.M. December 17.

Moved by Arata Seconded by Hammond Unanimously carried

HOLD OVER HEARING ON REZONING OF BLOCK 6000A 9-03

## MOTION

That the hearing be held over until 4:50 P.M. December 17.

Moved by Adams Seconded by Merrill Unanimously carried

CHANGE IN ONE-WAY ALLEY BETWEEN 9th AND 10th STREETS AND K AND L STREETS 9-15

Director of Parking and Traffic Carmody recommended that the traffic regulation in the one-way alley between 9th and 10th Streets and K and L Streets be returned to two-way traffic on a trial basis. He reported that the business concerns in the block had requested the change.

Mayor Marks suggested that the change be held up until after the Christmas season.

## MOTION

That the staff be directed to prepare the necessary document to provide for two-way traffic in the alley as of January 1, 1959.

Moved by Hammond Seconded by Spaulding Unanimously carried

CONSIDER 24 MINUTE PARKING NEAR NICHOL NEWS COMPANY 9-69

Council consideration was given to a request filed by Nichol News Company for the establishment of 24 minute parking zones from 9 A.M. to 9 P.M. near its store on 11th Street between I and J Streets. A report from the Director of Planning and Traffic outlining the situation and his recommendations, was read. Points brought out in the Council discussion were as follows:

- 1- That extending the parking enforcement until 9 P.M. would be undesirable; from an enforcement and precedent setting policy angle;
- 2- That it would be more desirable to have one extra 24 minute parking zone with a parking limit of 6:00 P.M. adjacent to the present one at the corner of 11th Street instead of two more 24 minute zones directly in front of the store.

12-10-58 Page 11

PERSONNEL COMMITTEE RECOMMENDATION ON SALARIES OF CITY EMPLOYEES 10-63

A letter from the Personnel Commission was read recommending that a one range general salary increase be approved for all city service classifications, effective January 1, 1959.

The Commission also recommended that the salaries for Librarian I and Librarian II classifications be y-rated to provide salaries for city employees equal to those paid by the County for similar positions, effective January 1, 1959.

The City Manager noted that copies of a report made by him to the Personnel Commission dated December 8, 1958, entitled, "Salary Recommendations for Remainder of Current Fiscal Year" had previously been distributed to the Council members.

Mayor Marks stated that the recommendation of the Personnel Commission was good and sound as living expenses had increased since 1957.

Councilman Adams considered that the 5% increase proposed by the Commission was in order.

Councilman Arata stated that business conditions had progressed satisfactorily since the Council first considered the possibility of granting an over-all 5% increase in July.

Councilman Hammond asked for a report on the percentage of the total budget which goes to salaries, for the last four years.

## RESOLUTION NO. 58-404

## A RESOLUTION ESTABLISHING SALARY SCHEDULES AND FIXING THE COMPENSATION FOR POSITIONS IN THE CITY SERVICE

Introduced by Arata      Seconded by Merrill  
 Ayes: Adams, Arata, Hammond, Merrill, Spaulding, Mayor Marks  
 Noes: None.              Absent: Robinson

REPORT ON SALES TAX REVENUE 11-10

Answering a question from Mayor Marks, Director of Finance Bird reported that the city's sales tax revenue was slightly lower this year but was "gaining fast". He expected the total revenue for this year to equal that of last year.

HOLD COUNCIL MEETING ON DECEMBER 23, 1958 11-16

## MOTION

That it is the Council's intention to adjourn its meeting of December 17 until 4:00 P.M. December 23, and to not hold the regularly scheduled meeting on December 24 at 7:30 P.M.

Moved by Merrill      Seconded by Mayor Marks      Unanimously carried

APPROVE LETTER AGREEMENTS FOR PERIMETER IMPROVEMENTS IN THE WALNUT GROVE SUBDIVISION

With the unanimous consent of the Council the City Manager was permitted to present two matters not on the agenda----relating to perimeter improvements in the Walnut Grove Subdivision.

MOTION

That the letter agreement between the City and Elliott Navon, et al for the installation of perimeter lights in the Walnut Grove Subdivision providing for a cost to the city of \$1,049.78 be and it is hereby approved.

Moved by Merrill    Seconded by Spaulding    Unanimously carried

MOTION

That the letter agreement between the city and Elliott Navon, et al for the installation of perimeter sewers in the Walnut Grove Subdivision, providing for a city cost of \$1,075.65, be and it is hereby approved.

Moved by Spaulding    Seconded by Adams    Unanimously carried

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned.

Moved by Hammond    Seconded by Adams    Unanimously carried

The meeting was adjourned at 10:10 P.M.

ATTEST:   
Rex E. Gailfus, City Clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Section 2-1.01 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Marks presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Hammond, Merrill, Robinson, Spaulding  
and Mayor Marks  
Absent: Councilman Adams

The pledge of allegiance to the flag was given by all those present.

Rev. Glenn Harmon gave the invocation.

GRANT VARIANCE REQUEST TO SHELL OIL COMPANY 1-18

Pursuant to Section 7-1.106 of the Municipal Code, Council consideration was given to the request filed by Shell Oil Company for a variance from the code to permit the installation of 3 asphaltic concrete approaches to the city streets, totalling 96 feet, at its plant being remodeled at 11th and B Streets, and a variance to exceed the 40% limitation for street openings on its 323 ft. frontage.

Director of Public Works Ray outlined the existing conditions; 1) storm drainage facilities are available; 2) both 11th Street and B Street have a light oiled surfacing; and 3) there are no curbs and gutters within the immediate vicinity and due to the nature of the area it might be possible there would be none for sometime to come. He made no recommendation on the request but suggested that if the Council approved the request that a bond or cash deposit in the sum of \$775 be posted; the replacement of the installation with standard concrete driveways when the adjacent area is improved by installation of curb and gutter; and the possibility of establishing a time limit, such as 3 years, for the permit.

Councilman Arata recommended that the time limit be based on the development of the area and when more than one-half of the property owners on either or both 11th Street or B Street install curbs and gutters, the applicant be required to do likewise.

RESOLUTION NO. 58-406

A RESOLUTION GRANTING A VARIANCE TO THE SHELL OIL COMPANY TO CONSTRUCT DRIVEWAYS AT ITS PLANT LOCATED ON ELEVENTH AND B STREETS IN THE CITY OF MODESTO

Introduced by Arata      Seconded by Robinson  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Adams

ACCEPT BID OF INDUSTRIAL ELECTRICAL COMPANY FOR LIGHTS IN WESTLAND  
MANOR NO. 2 SUBDIVISION 1-56

RESOLUTION NO. 58-406

**A RESOLUTION ACCEPTING THE BID OF INDUSTRIAL ELECTRICAL COMPANY FOR  
INSTALLATION OF STREET LIGHTING SYSTEM IN WESTLAND MANOR NO. 2  
SUBDIVISION**

Introduced by Merrill           Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None   Absent: Adams

**FINAL ADOPTION OF ORDINANCE NO. 274-C.S. PURCHASE OF DURAND PROPERTY 1-73**

**ORDINANCE NO. 274-C.S. entitled**

**"AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY BY THE  
CITY OF MODESTO FROM KENNETH H. DURAND AND GLADYS S. DURAND"**

introduced on December 10 and having been printed and published as required  
by the Charter and coming on for final consideration was moved and adopted.

Moved by Robinson    Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None    Absent: Adams

**APPROVE CLASSIFICATION SPECIFICATIONS FOR PLANNING SERVICES AND ELIMINATE  
CHIEF CLERK FROM FINANCE SERIES OF CLASSES 1-77**

**RESOLUTION NO. 58-407**

**A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF  
MODESTO**

Introduced by Spaulding   Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None    Absent: Adams

**CITY MANAGER TO PREPARE NEWS RELEASE RELATING TO CITY TAX RATE DURING  
PAST YEARS 1-80**

With the unanimous consent of the Council, Councilman Arata raised  
a matter not on the agenda-----letter appearing in the Modesto Bee on  
December 16 signed by "A Protesting Taxpayer". He asked that the article  
which had appeared in the "Letters from the People" column either be ans-  
wered or a news release be prepared by the City Manager pointing out that  
the city's tax rate had not beenincreased for the past seven years.

**MOTION**

That the City Manager be authorized to prepare a news release  
regarding the reduction in ad valorum taxes during the past  
years.

Moved by Arata    Seconded by Merrill    Unanimously carried

**ESTABLISH TWO 24 MINUTE PARKING METER SPACES ON ELEVENTH STREET BETWEEN  
I AND J STREETS 2-17**

**RESOLUTION NO. 58-408**

**A RESOLUTION ESTABLISHING TWO 24 MINUTE PARKING METER SPACES ON THE  
WEST SIDE OF ELEVENTH STREET BETWEEN I AND J STREETS IN THE CITY OF  
MODESTO**

Introduced by Arata           Seconded by Spaulding

Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None Absent: Adams

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ESTABLISH TWO WAY ALLEY BETWEEN NINTH AND TENTH STREETS AND K AND L STREETS 2-21(EFFECTIVE JANUARY 1, 1959)

RESOLUTION NO. 58-409

A RESOLUTION ESTABLISHING A TWO-WAY ALLEY BETWEEN NINTH AND TENTH STREETS AND K AND L STREETS IN THE CITY OF MODESTO

Introduced by Merrill Seconded by Spaulding  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None Absent: Adams

CONSIDERATION OF BUILDING PLANS OF JOHN QUARESMA AT TULLY ROAD AND ROSEBURG AVENUE 2-31

The City Manager displayed a map showing a plan proposed by John Quaresma for developing his commercial property located on the southeast corner of Tully and Roseburg Avenues. He pointed out that Mr. Quaresma was now appealing the decision of the Board of Zoning Adjustment denying his request for a conditional use permit to extend the commercial usage 75 feet into the adjoining R-3 and R-1 area.

The plans now proposed call for the construction of two buildings and the using for parking of the area between the set-back lines on Tully Road and the existing street, which area is to be used for the widening of Tully Road. If Mr. Quaresma proceeds with this plan and the city ultimately acquires this area for widening of the street, parking for the commercial area would be eliminated. He is legally entitled to ask for a building permit and proceed in accordance with his plans. The cost to the city for securing the right of way would be increased if this was done. The only way the city could protect this right of way would be to buy it now or file a condemnation suit.

The City Attorney reviewed the action taken by the Board of Zoning Adjustment on Mr. Quaresma's plans and application for a use permit.

Mr. Quaresma displayed a sketch of another plan he proposed in connection with his request for a use permit. He offered the city the following alternatives:

Alternative No. 1

The Council could pass a motion of intent or a vote of confidence at this meeting to extend the commercial useage 75 feet east and south by a conditional use permit so that this plan could be used and he would dedicate to the city the necessary rights of way for Tully and Roseburg Avenues and construct curbs, gutters, sidewalks and street improvements. In the discussion on alternative one, the following points were made.

The City Attorney informed the Council that Mr. Quaresma was really advancing the hearing scheduled before the Council for January 14. He stated that citizens appeared before the Board opposing this plan which provides for the buildings to extend into the 75 feet extension, as well as off-street parking.

Councilman Arata spoke in favor of the new plan.

Councilman Spaulding pointed out the Council could not take any

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action at this time since the people in the area should be given an opportunity to be heard at the public hearing before action was taken.

The City Attorney stated that if action was taken it would be prejudging the hearing and would be illegal. The Council could adopt a resolution at this time filing condemnation proceedings to prevent Mr. Quaresma from obtaining a building permit which could hold up action until the public hearing.

Councilman Robinson considered that Mr. Quaresma's problem arose from the fact he was trying to place two buildings on a plot designed for one.

The City Manager considered that it would be a grave error if plan No. 1 was used to develop the area and parking placed in which is essentially the street area. Two ways to avoid this would be, 1) if Mr. Quaresma would agree and promise the Council that he would not request a building permit until after the other matter was cleared and 2) file condemnation suit at this time and argue about it afterwards.

Councilman Hammond considered that it would be unwise for Mr. Quaresma to try to contravene the orderly procedures of government in this city. The hearing asked for has been set and the Council should not attempt to arrive at a decision prior to the hearing.

Mr. Quaresma considered that the procedures were cumbersome and jeopardize progress in the community. He felt that the Council would not grant the conditional use permit and there was no need for him to wait until January 14 to get his answer.

Councilman Merrill considered that plan No. 2 was the best for the orderly growth of the community.

A general Council discussion was held on the possibility of the members disqualifying themselves by expressing opinions on the matter prior to the hearing.

#### Alternate No. 2

Proceed to obtain a building permit and construct plan No. 1 with parking in the proposed street area.

#### Alternate No. 3

City to start condemnation proceedings

#### Alternate No. 4

City to purchase the rights of way on Tully and Roseburg Avenues.

The City Manager pointed out that the other alternative would be for Mr. Quaresma to wait for the result of the hearing before he requests a building permit.

Mayor Marks asked Mr. Quaresma if he would agree to give the Council his assurance that he would not proceed with construction until after the hearing on January 14.

Mr. Quaresma stated that for the sake of good government and harmony in the government and orderly growth in the community he would concede that no decision should be made at this time. He stated that he would wait for the hearing but felt that on January 14 he would be in the exact situation as he was at present and would

eventually have to build plan No. 1.

HEARING ON PROPOSED ANNEXATION OF SCHERER ADDITION 4-101

Mayor Marks declared that the hour of 4:30 P.M., had arrived, the time set for the public hearing on the proposed annexation of the Scherer Addition to the City of Modesto.

The City Clerk certified that the notice of the hearing had been published in the manner prescribed by law, notices were mailed to all interested persons, and no written protests had been filed.

Mayor Marks asked if anyone present wished to make any oral protests or any comments.

Mr. Scherer, petitioner for annexation of the area, asked that the petition be withdrawn at this time until other plans could be made for the use of his property.

The City Attorney stated that under the state law, it would not be possible for a proponent of the petition to withdraw it once it is filed. However, he stated, the Council could, after hearing the matter, either approve or disapprove the annexation. The petition for annexation could not be renewed for a period of one year if it was disapproved.

Planning Director Smeath pointed out that one other alternative would be to include this area in a larger area for annexation.

Mayor Marks declared the hearing closed.

ORDINANCE NO. 276-C.S. entitled

"AN ORDINANCE DISAPPROVING THE ANNEXATION OF UNINHABITED TERRITORY KNOWN AS THE SCHERER ADDITION TO THE CITY OF MODESTO"

Was adopted and ordered printed and published as required by the Charter.

Moved by Merrill      Seconded by Arata  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding and Mayor Marks  
Noes: None      Absent: Adams

CONTINUE HEARING ON ALLEY VACATION AND REZONING OF PROPERTY IN  
BLOCK 6000A-5-35

The City Manager asked that the matter of alley vacation in Block 6000 A and rezoning of this area be held over for a period of one week.

MOTION

That the hearing on the proposed vacation of alley in Block 6000 A be continued over until 4:30 P.M., December 23.

Moved by Robinson      Seconded by Merrill      Unanimously carried

MOTION

That the hearing on the proposed rezoning of a portion of Block 6000 A be continued over until 4:45 P.M., December 23.

Moved by Spaulding      Seconded by Arata      Unanimously carried

**HEARING ON ANNEXATION OF WESTAIRE ACRES ADDITION TO THE CITY OF  
MODESTO 5-40**

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Mayor Marks declared that the hour of 5:00 P.M., had arrived, the time set for the public hearing on the proposed annexation of Westaire Acres Addition to the City of Modesto.

The City Clerk certified that the notice of hearing had been published in the manner prescribed by law, notices were mailed to all interested persons, and no written protests had been filed.

Mayor Marks asked if there were any oral protests or if anyone wished to make any comments. No protests or comments were made.

Mayor Marks declared the hearing closed.

**ORDINANCE NO. 277-C.S. entitled**

**"AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS WESTAIRE ACRES  
ADDITION TO THE CITY OF MODESTO"**

was adopted and ordered printed and published as required by the Charter.

Moved by Arata           Seconded by Merrill  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None       Absent: Adams

**APPROVE RELEASE OF SUBDIVISION IMPROVEMENT BOND ON WESTLAND MANOR  
NO. 2 6-50**

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The City Manager reported completion of the improvements in Westland Manor No. 2 Subdivision by the subdivider, Security Title Company, in accordance with the terms of the agreement, and recommended the release of the performance bond.

**RESOLUTION NO. 58-410**

**A RESOLUTION AUTHORIZING THE RELEASE OF SUBDIVISION BOND FILED BY  
STANISLAUS COUNTY TITLE COMPANY, A CORPORATION**

Introduced by Spaulding           Seconded by Arata  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None       Absent: Adams

Mayor Marks left the meeting at 5:12 P.M.

**APPROVE APPROPRIATION TRANSFER OF FUNDS TO COVER COST OF MANPOWER  
STUDY BY KROEGER & ASSOCIATES 6-60**

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**RESOLUTION NO. 58-411**

**A RESOLUTION APPROVING APPROPRIATION TRANSFER FROM GENERAL RESERVE  
TO PERSONNEL OF \$1,500 FOR MANPOWER STUDY BEING MADE BY LOUIS J.  
KROEGER AND ASSOCIATES**

Introduced by Spaulding           Seconded by Robinson  
Ayes: Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: none       Absent: Adams and Mayor Marks

**CITY TO INTERVENE IN PACIFIC-SOUTHWEST LOCAL SERVICE CASE 5-73**

The City Manager reported that pursuant to the Council's instructions the staff had investigated the Pacific-Southwest Local Service Case (Docket No. 5645 et al) before the Civil Aeronautics Board and the Council had taken a position in favor of the continuance of the United Airlines service to Modesto. While the city can present evidence and information at the hearing without the necessity for formal intervention, it cannot file any briefs or participate in the oral arguments following the hearing. Therefore it might be wise for the city to file an intention to intervene.

Hal Pederson, Industrial Director of the Greater Modesto Chamber of Commerce, urged the city to intervene in this case as other cities in the valley because of the importance of the case. Rail passenger service has been declining in the entire area over the past years and it is felt that this will continue. The only way the city can be assured that the United Airlines trunk line service can be continued is to be present at the hearing to state its case. The increasing amount of commercial and industrial development in the Modesto area is tied to eastern and other California points.

RESOLUTION NO. 58-412

A RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE THE NECESSARY ACTION TO FILE A PETITION OF INTERVENTION IN THE PACIFIC SOUTHWEST LOCAL SERVICE CASE-DOCKET NO. 5645 ET AL.

Introduced by Arata      Seconded by Merrill  
Ayes: Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond  
Noes: None      Absent: Adams and Mayor Marks

Bob Schatz, local manager of the United Airlines added that intervening would show that Modesto had an interest in air transportation.

HEARING ON PROPOSED ZONING TEXT AMENDMENTS 5-110

Mayor Pro Tempore Hammond declared that the hour of 5:15 P.M. had arrived, the time set for the consideration of zoning text amendments.

The City Clerk reported that notice had been published in the manner prescribed by law.

The City Manager reported that the Planning Commission had considered and approved the proposed amendments. Copies of the amendments had previously been distributed to the Council members for study.

Mayor Marks returned at this time.

Mayor Marks asked if anyone in the audience wished to make any comments on the proposed changes in the zoning regulations. No comments were made.

Planning Director Smeath again reviewed the proposed changes for Council information. He pointed out that many were made to clear definitions and wording. It is proposed to have two new kinds of zones, one a Planned Development Zone (P-D) providing for any kind of use provided it is shown on the plan and a design for the use and a schedule of timing development. The second new kind of zone is the Industrial Park Zone (M-P). He reported that as suggested

by the Chamber of Commerce, the original wording for the M-P Zone had been modified to make the regulations somewhat less stringent.

The other principle change is a proposal in the C-1 and C-2 Zones which provides that there can be limited wholesaling, packaging and processing, normally carried on only in industrial zones.

The City Attorney pointed out that the P-D zone provided for an actual time schedule for development which becomes a part of the development plan and must be adhered to by successors in interest. The Commission is charged with the duty to see that this development is adhered to and if the owners are not doing so the Commission may initiate proceedings to remove the P-D Zone from the map or initiate an amendment or revocation of the development plan.

The timing regulation was generally discussed by the Council. The City Attorney pointed out that the Council had the authority, upon recommendation of the Commission, to extend the limits imposed by the development schedule.

ORDINANCE NO. 278-C.S. entitled

"AN ORDINANCE AMENDING SECTIONS 10-2.271, 10-2.301, 10-2.401, 10-2.801, 10-2.802, 10-2.803, 10-2.804, 10-2.805, 10-2.901, 10-2.902, 10-2.904, 10-2.905, 10-2.1002, 10-2.1004, 10-2.1005, 10-2.1104, 10-2.1105, 10-2.1507, 10-2.1618 and 10-2.1620 OF CHAPTER 2 OF TITLE X OF THE MODESTO MUNICIPAL CODE, AND ADDING SECTIONS 10-2.202.1, 10-2.204.1, 10-2.256.1, 10-2.272.2 AND ARTICLES 27 and 28 THERETO, RELATING TO ZONING REGULATIONS, AND REPEALING SECTION 10-2.1102 THEREOF."

was introduced and ordered printed and published as provided by the Charter.

Moved by Arata      Seconded by Hammond  
Ayes: Arata, Hammond, Merrill, Robinson, Spaulding, Mayor Marks  
Noes: None      Absent: Adams

AUTHORIZE REVISIONS OF DEPOSITS REQUIRED FOR CURB CUTS 7-06

Director of Public Works Ray reported on a proposal for modifying the regulations for curb cuts in the commercial and industrial areas. He suggested that the city cease collecting the \$3.00 per linealfoot replacement fee but require, by amending the Municipal Code, that when a curb cut or driveway is no longer used, notice be given to the property owner requiring the replacement to standard specifications and plans of the city. The Department feels that the present method is inequitable because some cuts might never be replaced and in many cases it has a deterring effect upon construction of curbs and gutters which would be an improvement to the community.

MOTION

That the City Attorney be instructed to prepare an amendment to the regulations to eliminate the present replacement fee and establish a method whereby property owners will be required to make replacements.

Moved by Arata      Seconded by Hammond      Unanimously carried

HOLD OVER ACCEPTANCE OF RIGHT OF WAY AGREEMENTS ON McHENRY AVENUE  
7-42

At the request of the City Manager, this matter was held over for a future meeting.

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He stated that there were some matters of litigation on the project which the staff would like to review with the Council at a later time.

CONSIDER REQUEST FOR RENTAL OF ROOM IN MODESTO COMMUNITY SERVICE CENTER 7-47

Director of Parks & Recreation Lowrey reported on the request of the Stanislaus County Association of Mentally Retarded Children for the rental of Room 102 in the Modesto Community Service Center for a period of 5½ months, beginning January 1, for purposes of conducting a pre-school nursery for mentally retarded children, at a monthly rental of \$55. He recommended that the request be approved.

MOTION

That the City Attorney be authorized to prepare the necessary lease agreement for Council approval.

Moved by Merrill Seconded by Hammond Unanimously carried

CITY STREET PROBLEMS 7-65

The City Manager noted that all Council members had received a copy of the League of California Cities bulletin regarding "City Street Problems", dated November 14.

This report goes to the basic fact that the cities are the "poor cousin" in gas tax allocation. The League has a proposal for a highway program which was developed originally by its Highway Committee, approved by the League Assembly recently. This program goes to the basic fact that the needs of the city, as developed in careful study, amounts to approximately fifteen billion dollars in California, the needs of the County about nine billion dollars and the state about eleven and one-half billion dollars. If these needs are matched against present rates of revenue, including all that the cities have been able to scrape up out of its own pockets, it will take the cities at the present rate of expenditure, 148 years to break even, and in the meantime the needs are growing too; the counties could do it with the present basis in 78 years; and the state in 21 years.

The cities now pay about three out of every four dollars on streets from local funds while the counties pay about one out of every four dollars from local funds. The state is completely gas tax and the county gets not only state gas tax but federal gas tax.

The City Manager reported that the City of Modesto was doing more than most cities as far as street expenditures were concerned. He asked that the Council take a position on that at a later date, after further consideration.

The City Clerk was directed to place this matter back on the agenda after the first of the year.

REPORT ON ADOPTION OF GENERAL PLAN 7-92

Director of Planning Smeath reported that the Commission had adopted the General Plan and certified a copy to the Council which would be presented at the next Council meeting.

PROPOSED ANNEXATIONS TO CITY 7-97

The City Manager noted that the following annexations were now underway, 1) Orangeburg Fire Station site; 2) Phoenix Avenue Fire Station site; 3) Airport Addition; 4) North Disposal Plant Addition; 5) Modesto Industrial Park.

MOTION

That the staff be authorized to take the necessary action to proceed with the annexation of these areas to the City of Modesto.

Moved by Spaulding      Seconded by Hammond      Unanimously carried

Mayor Marks stepped down from his chair at this time.

REPORT ON RESULTS OF THE ANDERSON vs MARKS TRIAL 7-107

Mayor Pro Tempore Hammond asked the City Attorney to report on the result of the Anderson vs. Marks trial.

The City Attorney reported that the case was tried in the Superior Court before Judge Ross Carkeet and before a jury. The jury verdict was rendered in favor of the plaintiff in the sum of \$25,000 for general damages. Since that time counsel for the defendant has filed a motion for a new trial, which matter has not been set for argument as yet. It is anticipated that it will be heard sometime this month.

Mayor Marks returned to his chair.

PROGRESS REPORT ON INSTALLATION OF PIPE AT DRYDEN PARK MUNICIPAL GOLF COURSE 7-120

The Director of Public Works reported that after four week ends of work, 15,500 lineal feet of transite pipe and 3,738 lineal feet of galvanized 2" or smaller pipe has been installed at the Dryden Park Municipal Golf course by volunteer laborers.

MOTION

That Mayor Marks be authorized to write a letter of commendation to the golf players and others for their volunteer work on the new course.

Moved by Arata      Seconded by Robinson      Unanimously carried

PRESENTATION OF SUGGESTION AWARDS 8-15

A report from the Employees' Suggestion Award Committee on the suggestions submitted since last May, was noted by the Council. The Committee recommended awards to the following employees at this time:

Nancy Kelly, \$10 and certificate of commendation  
Two awards to LaVerne Eilerts, one for \$10 and one for \$20

The awards were presented to the employees by Mayor Marks

ADJOURNMENT

MOTION

That the Council meeting now in session be adjourned to 4:00 P.M., Tuesday, December 23.

Moved by Arata    Seconded by Merrill    Unanimously carried

ATTEST

  
CITY CLERK

Modesto City Council  
December 23, 1958

The Council of the City of Modesto met in regular adjourned session this date at 4:00 P.M., as provided by Section 2-1.07 of the Modesto Municipal Code, in the Council Chamber at the McHenry Public Library, 14th and I Streets, Mayor Pro Tempore Hammond presiding.

The City Clerk called the roll and there were

Present: Councilmen: Arata, Adams, Spaulding, Mayor Pro Tempore  
Hammond  
Absent: Councilmen: Robinson, Merrill and Mayor Marks

Councilmen Robinson and Merrill arrived at 4:05 P.M.

The pledge of allegiance to the flag was given by all those present.

Rev. Lorell Weiss gave the invocation.

Unanimous consent of the Council was given to consider new items placed on the agenda. The City Attorney was granted permission to present an additional item not on the agenda----consideration of Northern Boulevard property owned by Robert Nickerson.

LETTER FROM BOY SCOUTS RE: USE OF HI-RANGER EQUIPMENT 1-35

A letter from the Yosemite Area Boy Scouts of America was read asking for permission to rent the city's hi-ranger equipment to remove mistletoe from trees at its camp located on Merced River. City employees, who regularly operate the equipment, have agreed to work on a week end for the Scouts if the Council would approve the rental arrangement. Insurance would be carried to protect the city.

City Attorney Allen Grimes advised the Council regarding the legality of renting city equipment and the possibility of setting a precedent. Other related matters were generally discussed by the Council.

MOTION

That the rental of the equipment to this type of community would not set a precedent and that the request be referred to the City Manager to work out suitable rental arrangements for Council approval

Moved by Arata Seconded by Robinson Unanimously carried

BULLETIN FROM MAYOR WALTER WHITE OF CITY OF CERES 1-95

A bulletin from Mayor Walter White of the City of Ceres relating to sales tax distribution by the city and county was noted.

The City Manager reported that copies of the bulletin would be made available to all members of the Council.

REQUEST BY STANDARD OIL COMPANY FOR PERMISSION TO INSTALL GASOLINE TANK IN SIDEWALK AREA 1-104

A letter was read from Standard Oil Company requesting permission to install a 550 gasoline pump and tank in the parking area

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between the sidewalk and curb at the Martini property located at 1001 8th Street to serve the large trucks of the Continental Baking Company.

Mr. Gibbs, representing the Standard Oil Company, spoke on behalf of the request. He stated that the interference with pedestrians and traffic would be minor because the trucks would be using the gas pump between 3:00 and 5:00 A.M.

Director of Public Works Ray pointed out the possibility of knocking over the gasoline pump with attendant hazards. The Department will not recommend at any time the placement of a filling station type of operation in the park strip area on a public street. This would mean that every vehicle being served would have to park across the sidewalk.

The possibility of locating the gasoline pump within the building and the tank in the parking area was considered. Mr. Gibbs stated that if this was done it was his understanding that a separate room would have to be built around the pump to make it fire proof, thus increasing the installation costs materially.

Mr. Dave Martini, owner of the property, offered no objections to holding the matter over until January 7, the next Council meeting, in order to permit the Council members to inspect the property and the staff to make a further study and report.

ORDINANCE AMENDING MUNICIPAL CODE RELATING TO DOGS 2-92

ORDINANCE NO 279-C.S. entitled

"AN ORDINANCE AMENDING SECTIONS 5-4.201, 5-4.207 and 5-4.210 OF ARTICLE 2 OF CHAPTER 4 OF TITLE V AND SECTIONS 5-4.401 AND 5-4.404 OF ARTICLE 4 OF CHAPTER 4 OF TITLE V OF THE MODESTO MUNICIPAL CODE RELATING TO DOGS"

was introduced and ordered published and printed as provided by the Charter.

Moved by Merrill Seconded by Robinson  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro  
Tempore Hammond  
Noes: None Absent: Mayor Marks

APPROVE SPECIFICATIONS AND CALL FOR BIDS FOR RUBBER TIRED TRACTOR  
2-103

RESOLUTION NO. 58-413

A RESOLUTION APPROVING SPECIFICATIONS AND AUTHORIZING THE CALLING FOR BIDS FOR FURNISHING ONE NEW RUBBER TIRED TRACTOR WITH BUCKET LOADER

Introduced by Adams Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore  
Hammond  
Noes: None Absent: Mayor Marks

The time set for the opening of the bids was 2:00 P.M., January 12.

RESOLUTION TRANSFERRING FUNDS TO COVER SALARY ADJUSTMENTS 2-107



APPROVING AMENDMENT NUMBER 2 TO AGREEMENT FOR MAINTENANCE OF STATE HIGHWAY 3-36

RESOLUTION NO. 58-417

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING AMENDMENT NUMBER 2 TO AGREEMENT FOR MAINTENANCE OF STATE HIGHWAY IN THE CITY OF MODESTO

Introduced by Merrill      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond

Noes: None      Absent: Mayor Marks

APPROVE RIGHT OF WAY AGREEMENTS FOR WIDENING OF McHENRY AVENUE 3-46

Right of Way agreements from Herbert Halverson, J. L. Wallace, Emily Olson, Clarence H. Roman and Louis W. Zimmerman were presented for Council approval. Damage costs to be paid by the city were listed by the City Manager.

RESOLUTION NO. 58-418

A RESOLUTION APPROVING RIGHT OF WAY CONTRACTS BETWEEN THE CITY OF MODESTO AND PROPERTY OWNERS ALONG McHENRY AVENUE AND AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS ON BEHALF OF THE CITY

Introduced by Arata      Seconded by Spaulding  
Ayes: Adams, Arata, Merrill, Robinson, Spaulding, Mayor Pro Tempore Hammond

Noes: none      Absent: Mayor Marks

REPORT ON WIDTH OF SIDEWALKS ON 99 HIGHWAY OVERPASSES 3-63  
Carmody

Director of Parking and Traffic/reported that after conferences with officials from the Division X of the Department of Public Works, Division of Highways, a compromise width of 7 feet was agreed upon for two sidewalks to be installed on freeway overcrossings at Sierra Drive, G, I, K and L Streets and a width of 10 feet on H Street. No action was taken by the Council on the report.

HOLD OVER HEARING ON REZONING OF BLOCK 6000 A 3-80

MOTION

That this hearing be continued over to 5:15 P.M. on January 7.

Moved by Robinson      Seconded by Adams      Unanimously carried

PETITIONS FOR ANNEXATION HOLD OVER 3-83

The City Manager reported that he had met with the Board of Supervisors to obtain permission to annex the portion of the Airport property in which the county has an interest. The Board asked that the matter be held over until a later meeting.

The City Manager displayed a sketch of the area proposed to be annexed and pointed out that two small areas, one across East Modesto Road and the other across Lenay Drive, would be deleted from the annexation proceedings because of multiple jurisdiction problems.

DISCUSSION OF CITY SERVICES TO SUBDIVISION OFF ROSE AVENUE 3-110

The City Manager presented a sketch of a 30 acre subdivision being developed by Charles Jeffers, located off Rose Avenue. He reported that the staff had reviewed with the Council Sewer Committee the possibility of furnishing city services under the usual agreement basis of annexation of the area when adjacent to the city limits.

Roy Fredricksen, Engineer, reported that the map of the subdivision had already been filed with the city and county planning commissions for review of design. The subdivider intends to proceed with the development as rapidly as possible, he stated.

The City Manager reported that a check of the area indicates the city can furnish water services with an extension from the well located at the southeast corner of the Downey High School property. The staff believes that the city should be prepared to serve all of the adjacent areas with water and sewers as it is developed.

Director of Public Works Ray reviewed the water situation and the revenue to be derived from both the water and sewer service. A rough estimate of the city costs for a sanitary trunk sewer would be \$53,300 but in the event it is necessary to go to the northern alley connecting to Rose Avenue, the approximate cost would be \$65,000. A small subdivision on Locke Road, across Rose Avenue, can also be served. This subdivision has installed dry sewers with the hope that they can have city sanitary sewer service eventually. The estimated costs have been made without the necessary topographical information and will be subject to change when this information is available.

He reported that there was an available balance in sewer bond money of approximately \$45,000 which could be utilized for this purpose, with Council approval. He recommended that sewer and water service be furnished this subdivision.

He pointed out that there would be perimeter sewers involved and the city could anticipate an additional \$5,000 expenditure which would be recoverable. The annual income for sewer service fees is estimated to be \$1,135 and water income \$3,483, with initial water connection fees of approximately \$7,000.

He reported on discussions held with the subdivider on the furnishing of storm sewers. He considered that at this point the city should not enter into a drainage agreement for this particular area.

Councilman Adams reported that the Council Sewer Committee approved the proposal of using the available \$45,000 for a sanitary trunk line and to furnish water service. The Committee is still on "dead center" on storm drainage but every effort should be made to consider all the alternatives to work out some program if possible.

## MOTION

That the staff be authorized to work out the necessary arrangements with the subdivider for the furnishing of water and sewer services and continue the study on storm drainage.

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Moved by Adams      Seconded by Merrill      Unanimously carried

APPROVE OFFER FROM PROPERTY OWNERS TO DEDICATE RIGHT OF WAY FOR  
WIDENING COLLEGE AVENUE      4-116

A letter was received from the property owners on the east side of College Avenue, between Cecil Way and Roseburg Avenue, indicating their willingness to dedicate to the city the necessary right of way to widen College Avenue with the understanding that the city would construct curb and gutter along their frontages to compensate for damage done to their properties.

Mr. Ray explained the circumstances which warranted special consideration of this offer. All seven existing dwellings will be very close to the street if additional right of way is acquired, the closest 5' and the farthest 12½'.

He recommended that the offer be accepted but before it was done the Council should be aware that there was a possibility other property owners will ask for the same consideration before they dedicate requested rights of way. He suggested that in thinking of future cases the Council might establish a policy that the city would be willing to construct curbs and gutters only in cases where greater than a normal width of street is required.

Mayor Pro Tempore Hammond considered that it would be difficult to set an over-all policy as each situation should be judged on its individual circumstances and merits. He stated that this particular area did have a very serious problem and was different from other situations.

Councilman Adams raised a question on damages as related to the two vacant lots at each corner of the block.

**MOTION**

That the Council accept the proposal of the property owners because of the peculiar circumstances and problems which would be created by the widening of College Avenue.

Moved by Merrill      Seconded by Arata      Unanimously carried

**MOTION**

That the staff be directed to bring back to the Council a draft of a statement of conditions under which the city would be willing to consider the installation of curbs and gutters.

Moved by Arata      Seconded by Spaulding      Unanimously carried

NORTHERN BOULEVARD ACQUISITION      5-82

The City Attorney reported on negotiations which had been undertaken with Robert Nickerson and the owners of adjacent properties, to the south. A compromise arrangement has been worked out on the condemnation proceedings to provide the city would purchase the right of way for Northern Boulevard from the owner and in return the owner is to develop the extension of Gale Avenue through the property in conjunction with property owners to the south.

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