

Council Meeting

January 6, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by ordinance No. 1084-N.S.

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

Invocation was given by Rev. J. D. Buerer of the Grace Baptist Church.

Roll call of the Council was taken by the City Clerk and there  
Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks  
Absent: Councilmen: None

APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of December 9 and 16, and the same being available for public inspection, and there being no objections, the minutes were approved.

A LETTER FROM SHORELINE PLANNING ASSOCIATION OF CALIFORNIA INC.

A letter, dated Dec. 29, from the Shoreline Planning Assoc. of California Inc. urging the adoption of a resolution by the Council relating to expenditure of funds collected on tideland oil drilling for recreation purposes, was read by City Manager Miller. Councilman Annan moved, seconded by Councilman R. Adams, and it was unanimously carried, that the letter be referred to the Planning Commission.

REPORT ON EXPIRATION OF TERMS OF MEMBERS ON VARIOUS COMMISSIONS AND BOARDS

Copies of a report were distributed to the Councilmen by City Manager Miller, listing the names of the members of the Planning Commission, Personnel Commission, Parking Authority and the Library Board, whose terms had expired, for their study.

Mayor Marks stated that consideration should be given, in making these new appointments, to the policy adopted by the Council of maximum citizen participation on a rotation basis.

It was suggested that both John Gorman, whose term expired on the Library Board and H. D. Buxton, whose term expired on the Personnel Commission, be contacted to determine whether they would accept reappointment, since their original appointments had been for a short term.

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3 CONTINUATION OF THE HEARING ON THE PROPOSED ZONING OF THE NORTHWEST ADD'N.

Mayor Marks declared the continuation of the hearing on the proposed zoning of the Northwest Addition reopened at this time.

At the request of the Mayor, City Manager Miller reviewed the discussion which had ensued at the two previous Council meetings. He stated that in compliance with the request of the Council for the filing of plans for the proposed C-1 Commercial development of the property at the intersection of Tully and Roseburg Avenues, the Shell Oil Company had filed precise plans for the southwest corner and he called attention to the maps posted on the Council Chamber wall, which had been prepared by the Planning Department for John Quaresma and Bob Bomberger, for the proposed development of the southeast, northeast and northwest corners of the intersection, which called for service stations on all corners, as well as store buildings and parking areas. He pointed out that provision was made for the 90 foot right of way required on Tully Avenue. The question before the Council, he stated, is whether this property should be zoned C-1 Neighborhood Business.

The City Attorney outlined the action taken by the Council at the meeting held on Dec. 23, and stated that there was pending before the Council, a motion which had been made and seconded, to introduce an ordinance which would zone the Northwest Addition in accordance with the provisions approved by the Planning Commission.

Mayor Marks pointed out the responsibility of the Council in the zoning of property and questioned the advisability of putting a "blight" on the commercial area already existing in the downtown area, which provided the tax base of the city, by creating additional commercial area and thus decentralizing the central shopping area. It is the tendency of residential property owners, he pointed out, to allow their homes to degenerate whenever they have been included in or adjoin a commercial area, and, he continued, the Council not only represents the people who own property which they wish zoned commercial but myriads of small residential owners whose property is going to be affected.

The following points were brought up in the discussion which followed:

- 1-Whether the community would support this additional amount of commercial area?
- 2-Whether it would be going against free enterprise if the Council would tell a person where they could open up a store or operate a business?
- 3-Whether the Council had been in error when the plan for the development of a commercial area on the northwest corner had been approved in the College Center subdivision map, thus giving the impression that a commercial area was going to be developed at the intersection of Tully and Roseburg Avenue?
- 4-Whether it is fair not to zone all four corners if commercial areas are proposed for the west side of Tully Avenue?
- 5-In the future before any commercial area is approved for one corner, all four corners should be considered.
- 6-Whether the ordinance could provide set back lines for the buildings to be constructed so that a traffic hazard would not be created?
- 7-Whether, with the establishment of shopping centers and C-1 areas in various sections of the city, the establishment of large parking areas, as requested by the downtown merchants, would be futile.
- 8-That in zoning these four corners C-1, the Council should make it clear that a precedent would not be set.

The City Manager pointed out that tentative estimate by members of the Planning staff in connection with the preparation of the new zoning ordinance, which was to have its first public hearing at 7:30 P.M., Jan 18, in the Council Chambers, indicates that area already zoned C-1 in the city was sufficient for a city of several hundred thousand. It is possible, he stated, that all areas now zoned C-1 will not be developed and that consideration to the growth of the city should be given to zoning other areas as C-1, but each case must be considered on its own merits.

Mr. John Quaresma stated that this intersection was the most logical location for a business center since it would serve a large number of homes in the surrounding territory, which was rapidly developing and that it was the only undeveloped area remaining in the Northwest area, which would be large enough for a shopping area. The proposed plan, he continued, screens the residential area from the shopping area and is a good plan. He also pointed out that no protests had been filed at either of the public hearings held by the Planning Commission.

The City Attorney pointed out that the motion before the Council for consideration provided for the zoning, as C-1, of only a small portion of the property as shown on the map, as proposed development of the southeast portion of the intersection, and that if plans were approved as

as presented, that an additional amendment to the zoning ordinance would be necessary after the required public hearings had been held by the Planning Commission and the Council.

Attorney E. M. Lacy, representing the property owners of the southeast corner of the Roseburg and Tully Avenues intersection, stated that his client would have no objections to the establishment of a set back line to prohibit building up to the corner and thus create a traffic hazard. The property, he stated, is in the process of being sold and zoning it now as C-1 instead of six months later, would be more advantageous. He pointed out that if the west side of Tully Avenue was zoned commercial, with the possibility of a similar zoning on the east side later, that it would work a hardship on the property owner to sell the property for residential purposes.

Director of Planning Bills pointed out the possibility that it would be necessary to zone the intersection C-2, instead of C-1, if the proposed plans for the development of the area were approved.

Mayor Marks called for the vote on the motion before the Council----should use district Map #9 be added to section 2 of Ordinance No. 700-N.S., as recommended by the Planning Commission? Councilman Arata moved the introduction and passage to print of

ORDINANCE NO. 1102-N.S.

entitled: "AN ORDINANCE AMENDING SECTION 2 of ORDINANCE NO. 700-N.S., AS AMENDED, BY ADDING USE DISTRICT MAP NO. 9 THERETO FOR THE PURPOSE OF ZONING THAT CERTAIN TERRITORY IN THE CITY OF MODESTO KNOWN AS THE 'NORTHWEST ADDITION'", which motion being duly seconded by Councilman Merrill, was upon roll call carried and ordered printed and published by the following vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
 Noes: Councilmen: Mayor Marks  
 Absent: Councilmen: None

Mayor Marks stated that as provided by section 19 of Ordinance No. 1084-N.S. (Procedural Ordinance), that he wished the record of the meeting to show the reason for his dissent was "that he did not consider that plans of this type, on the east side of Tully Avenue, was for the best interest of the people of Modesto."

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Councilman Annan recommended that the Council go on record as being opposed to this continued commercial expansion in the residential area so that the public would know in making future investments. It was pointed out that under the provisions of the new proposed zoning ordinance that the zoning of the entire city would be considered and Councilman Arata moved, seconded by Councilman Annan, that the map presented by Mr. Quaresma and Mr. Bomberger, for the proposed development of the property at the intersection of Tully and Roseburg Avenues, be referred to the Planning Commission for its study and consideration in the future zoning of the city. Mayor Marks declared the motion carried, and the hearing on the zoning of the Northwest Area closed.

CONSIDER APPLICATION OF CHARLES V. SALES FOR ADDITIONAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TAXICAB

Mayor Marks declared the hearing open on the request of Charles V. Sales for certificate of public convenience and necessity to operate one additional taxicab.

Police Chief Neel reported that at the present time, although there were 19 certificates in existence, only 18 were being used. Although provisions of Ordinance No. 1053-N.S. (Taxicab Ordinance) provides that before additional certificates are issued that the Police Chief shall file a report with the Council that the demand of the public for additional taxicab service or that the adequacy of existing mass transportation and taxicab service required additional taxicabs, that he was unable to determine this without a detailed survey of the taxicab operators, which should include an audit of the books of the various companies to determine the amount of business that they were doing, and that the Police Department was not in a position to conduct such an audit at the present time.

When Mayor Marks asked for questions from the audience, Mr. Sales stated that it had been his understanding when he purchased Mr. Lester's business, that although only two certificates were granted that he could, at any time, come to the Council and obtain another certificate since Mr. Lester had originally been granted three certificates. He outlined the difficulties in operating a taxicab business with only two cabs.

Councilman Mellis stated that since the granting of one additional certificate to Mr. Sales would not increase the total number of certi-

cates originally granted (20), that he would move that the City Attorney be instructed to draft a resolution granting an additional certificate to Mr. Sales for the consideration of the Council at its next meeting, which was seconded by Councilman Merrill and unanimously carried. Mayor Marks declared the hearing closed.

REQUEST TO RUN A HORSE DRAWN STAGE COACH THROUGH THE CITY STREETS-GRISWOLD & WIGHT

A letter was read from Griswold & Wight requesting permission to run a horse drawn stage coach, carrying advertising signs, on the streets of the business section between the hours of 10 A.M. and 2 P.M. January 5 through Jan 22, advertising a 49'er Days Silver Dollar Sale, being sponsored by approximately 50 merchants. Councilman Arata moved, seconded by Councilman Merrill, and it was unanimously carried, that permit be granted.

A discussion was held by the Council, but no conclusion reached, on the possibility of amending Ordinance No. 584-N.S. which regulates the advertising upon the city streets, so that permit could be granted in specified cases in the future, where the general community interest would be benefited, by the City Manager or Police Chief, instead of the Council, since many times the requests were filed too late for Council consideration and requests had to be held over for a week.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS ON PUMP HOUSE STATION #16

Plans and specifications for the construction of a pump house at pump station No. 16 (College Village #2 tract), were presented for the consideration of the Council by Director of Public Works Ray. Councilman Merrill introduced

RESOLUTION NO. 54-5

seconded by Councilman M. Adams, approving the plans and specifications for the pump house as recommended by the Director of Public Works and authorizing the calling for bids, to be opened at 2:00 P.M., Jan 25, 1954, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

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AUTHORIZE PAYMENT TO V. P. BARTON FOR CONSTRUCTION OF SANITARY SEWERS TO THE BARTON OAKS SUBDIVISION

Upon the recommendation of the City Manager, Councilman M. Adams introduced

RESOLUTION NO. 54-6

seconded by Councilman Annan, authorizing payment of \$500 to V.P. Barton and Mildred E. Barton, as provided by section 4 of agreement, dated Oct. 7, 1953, for the construction of sewer laterals to serve the Barton Oaks subdivision, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

RESOLUTION SETTING DATE FOR HEARING ON PROPOSED ANNEXATION OF McHENRY VILLAGE ADDITION

A letter from James H. Corson, Superintendent of Schools, was read, advising that after careful consideration the Board of Education had come to the conclusion that the McHenry Village Tract should not be annexed to the Modesto Elementary School District simultaneously with the annexation of this property to the city but that it should remain in the Sylvan School District.

The City Attorney stated that section 35319 of the State Government Code provided that in the annexation of uninhabited territory Act of 1939 that unless the written consent of all of the property owners is obtained prior to the adoption of the ordinance approving annexation, that all the property in the annexed territory could not be taxed to pay any indebtedness or liability of the city contracted prior to or existing at the time of annexation. He pointed out that some of the property owners in the proposed McHenry Village Addition had protested the inclusion of their property and that unless their consent was obtained prior to the adoption of the ordinance that the whole area would not be subject to taxation to pay the outstanding bonded indebtedness of the city. The law is not clear whether the city could, once the annexation proceedings have been started, the City Attorney continued, withdraw the request and proceed anew, deleting the property of those who objected to annexation.

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It was agreed by the Council that proceedings on the annexation should continue and Councilman Annan introduced

RESOLUTION NO. 54-2

seconded by Councilman Arata, giving notice of the proposed annexation of the McHenry Village Addition to the City of Modesto and fixing the 17th day of February, 1954, at 4:15 P.M., in the Council Chambers of the City Hall, as the time and place for considering said petition and the hearing of any protests on the proposed annexation of said addition, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

9 RESOLUTION SETTING DATE FOR HEARING OF PROTESTS ON PROPOSED ANNEXATION OF BRIGGSMORE ADDITION

Councilman R. Adams introduced

RESOLUTION NO. 54-3

seconded by Councilman M. Adams, giving notice of the proposed annexation of the Briggsmore Addition to the city and fixing the 17th day of February, 1954 at 4:30 P.M. in the Council Chambers of the City Hall, as the time and place for consideration of said petition and the hearing of any protests on the proposed annexation of Briggsmore Addition to the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

10 ESTABLISH PARALLEL PARKING ON 11th STREET BETWEEN K AND L STREETS

Upon recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-4

seconded by Councilman Mellis, establishing parallel parking on both sides of 11th Street, between K and L Streets and directing the Director of Public Works to post the necessary signs, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

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Noes: Councilmen: None

Absent: Councilmen: None

REQUEST PERMISSION INSTALL WISHING WELLS FOR MARCH OF DIMES CAMPAIGN  
FILED BY NATIONAL FOUNDATION FOR INFANTILE PARALYSIS

A request filed by the National Foundation for Infantile Paralysis, sponsored locally by the Modesto Junior Chamber of Commerce for permission to place wishing wells in the business area during the March of Dimes campaign, Jan. 2 through Feb. 2, 1954, was considered. Councilman Merrill introduced

RESOLUTION NO. 54-7

seconded by Councilman M. Adams, granting permit to the said applicant to install wishing wells at locations set forth in the letter, on the condition that the city will be held harmless from and against any and all costs, damages and liability arising out of the erection and maintenance of said wishing wells, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

REPORT ON YOUTH CENTER PROGRAM

A report was filed by Councilman R. Adams on a meeting which had been held on Jan 5, to discuss the interim policy for the use of the Youth Center, which was attended by Councilman Mellis, City Manager Miller, Lee Brooks, Bob Shelton and himself. This report outlined the recommended interim policy, the suggested fees, days available, advance reservation notice and supervision. It was moved by Councilman Arata, seconded by Councilman Merrill and unanimously carried that the City Attorney be directed to draft a resolution for the consideration of the Council, along the lines outlined in the report.

Notes on various suggestions discussed at this meeting for the final program of the center were distributed to the Council members by Councilman R. Adams for their study. A suggestion of the committee that a formal dedication of the center be held on Sunday, Feb. 28 from 2 P.M. to 5 P.M., was discussed by the Council.

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Mayor Marks suggested, and the Council concurred, that the present Recreation Commission be honored at a luncheon which could be held at the center just prior to the dedication ceremony, and that representatives of the L. J. Maddux family be invited to attend.

Councilman Annan left the meeting at this time.

13 REPORT ON ANALYSIS OF LIQUOR CONTROL LEGISLATION

In order to comply with the request of John Erreca, Director of the Central Valley Division of the League of California Cities for some indication of the city's position on certain phases of liquor control, which was to be discussed at a Director's meeting of the Central Valley Division on Jan. 7, the City Manager reported on a recent conference<sup>held</sup> with Police Chief Neel at which the following suggestions concerning possible changes in the present administration of the State Board of Equalization with regard to liquor control, were discussed:

Liquor control be separated from the State Board of Equalization and that this function be administered by one agency alone, such as

- (a) A full time board
- (b) An advisory group not responsible for the administration of the liquor control function
- (c) A separate department

The City Manager stated that the question was raised as to whether or not the members of the board or department should be elected or appointed and it had been suggested that if the members of the board or department were elected that all members should be responsible for the whole state. This would eliminate the situation that now exists wherein each member is responsible for his own district.

Question which were raised concerning the issuance of liquor licenses were; (a) Should the city issue them? (b) Should the city have the right to deny the issuance of a license? (c) Should the city be given the right to revoke licenses? and (d) Should the transfer of licenses be eliminated?

The City Attorney pointed out that cities could control, through its zoning power, the location of licenses issued by the state. It was brought out in the discussion that the city now has the right to protest the issuance of licenses since copies of applications for licenses and transfer of licenses are sent to each city and that any protest filed

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with the state by any city, is given consideration. It was suggested that the city reserve the veto power on the issuance of licenses.

The City Manager stated that the Police Chief had suggested that it be made mandatory that all employees of bars be finger printed and that none be allowed to work if it is ascertained that they have ever been convicted of a felony or a crime involving moral turpitude. Police Chief Neel had also suggested, the City Manager stated, that the present requirements that bars serve food be eliminated due to the fact that bars are classed as restaurants and minors are allowed to remain in them.

Councilman Mellis pointed out that certain elements in the state were trying to bring confusion to the question of liquor control and that he believed that the State Board of Equalization was doing a good job. Other states, he continued, are studying California's method of handling liquor control since it was progressive. It would be costly to the tax payers to establish a separate board. He expressed approval of the suggestion that employees be finger printed.

Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the Council go on record as recommending to the Directors of the Central Valley Division of the League of California Cities, that all employees in "on sale" establishments be finger printed and that none be allowed to work if they have been convicted of a felony or a crime involving moral turpitude.

14 LETTER FROM STATE DIVISION OF HIGHWAYS  
TRAFFIC SIGNALS ON YOSEMITE BLVD.

RE: INSTALLATION OF

A letter from J. G. Meyer, District Engineer of District X of the State Division of Highways, relating to the study of the possible installation of traffic signals on Yosemite Blvd., at LaLoma and Santa Cruz Avenues, was read. Mr. Meyer stated that previous studies made by the state indicated that traffic conditions at the LaLoma intersection met the minimum requirements for traffic signals and that a further study would be made on the possibility of justification for installing signals at not only Santa Cruz Avenue but also at the Santa Ana and Las Palmas intersections.

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15 PRESENTATION OF STUDY MAP MAJOR STREETS

A study map of major streets, being prepared by the Planning Commission, was presented for the consideration of the Council.

Councilman Mellis left the meeting at this time.

16 APPROPRIATION TRANSFER \$10,900 FROM GENERAL RESERVE TO ENGINEERING DEPT.

Upon recommendation of the City Manager, Councilman R. Adams introduced

RESOLUTION NO. 54-8

seconded by Councilman M. Adams, approving appropriation transfer of \$10,900 from the General Reserve Fund to the Engineering Dept. to provide additional personnel, equipment and material for the completion of plans and surveys on various trunk sewers and improvement districts, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Mellis

17 REVISED REPORT ON SPACE REQUIREMENT FOR ADMINISTRATIVE OFFICE DEFERRED

The City Manager stated that the revised report on space requirements for administrative offices would be deferred until a later meeting.

18 SET DATE FOR SPECIAL COUNCIL MEETING

It was agreed by the Council that a special meeting of the Council would be held at 6:00 P.M. Jan 13 in lieu of the regularly scheduled Council meeting for 7:30 P.M. the same day since the latter conflicted with a dinner meeting to be held for the state legislators who would be present for the hearings to be held on January 14th.

19 REQUEST OF TAXICAB OPERATORS FOR EMERGENCY ORDINANCE REGULATING OPERATION OF CARS FREE OF CHARGE BY TAXICAB DRIVERS

Joe Secreto, spokesman for the taxicab operators in the city, requested that the Council adopt emergency legislation to prevent Teamsters Union No. 386 from operating a "Union Courtesy Car Service", which service was being operated by the striking taxicab drivers, who are not charging for their services but are accepting a "free will offering" for the transportation of passengers.

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The City Attorney pointed out that this was a labor dispute between the taxicab operators and drivers and that he was not sure that the taxicab ordinance prohibited this type of operation.

Mayor Marks advised the taxicab operators that an investigation would be made by the city's administrative staff and report submitted to the Council at its next meeting and whatever action was necessary to protect the public interest and welfare would be taken by the Council.

ADJOURNMENT

It was moved by Councilman Arata, seconded by Councilman Merrill and unanimously carried, that the Council meeting now in session adjourn. (7:30 P.M.)

  
ATTEST: REX E. GAILFUS, CITY CLERK

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January 13, 1954

The Council of the City of Modesto met in special session this date at 6:00 P.M., as provided by Section 2 of Ordinance No. 1084-N.S.

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

Invocation was given by Rev. H. L. Bone of the Nazarene Church.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Absent: Councilmen: None

City Manager Miller being absent due to illness, Assistant City Manager Shelton acted in his place.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meeting of December 23, 1953, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM CITY OF OAKDALE RE: LEAGUE MEETING IN OAKDALE, JAN 21, 1954

A letter from W. B. Reynolds, Mayor of Oakdale asking that reservations be made in advance for the Central Valley Division of the League of California Cities meeting, which will be held in Oakdale, Thursday, Jan 21, at the Dorada Clubhouse, was read and Mayor Marks asked all Councilmen and officials planning to attend to make reservations with the City Clerk.

#### LETTER FROM MODESTO IRRIGATION DISTRICT RE: USE OF WATER BY CITY

A letter from C. E. Plummer, Chief Engineer of the Modesto Irrigation District was read, advising that the Board of Directors of the District had requested that the Council be notified that the question asked by the Forward Modesto Committee, as to the availability of water from the district's canal system for the City of Modesto, had been considered and that the Board agreed that a porportionate share of water would be made available, free of charge, to the city for domestic and industrial use within the area of the city located within the district, and that porportion would be based on the area of the city to the total area of the district. The letter was referred to the City Manager, with

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instructions that a copy be forwarded to the Forward Modesto Committee.

3 APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR WELL DRILLING AT PUMP STATIONS #1 and #17

Plans and specifications for the furnishing of materials, labor, etc for the drilling of two deep wells (#1, located at 17th and G Streets), and (#17, located near the Roosevelt School), were presented to the Council by Director of Public Works Ray for consideration. Councilman M. Adams introduced

RESOLUTION NO. 54-10

seconded by Councilman Arata, approving plans and specifications and authorizing the calling for bids for the drilling of two deep wells located, as described above, said bids to be opened at 10:00 A.M. Monday, Feb. 1, 1954, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

4 RESOLUTION ACCEPTING CONSTRUCTION OF SEWER LINE IN BLOCKS 6000, 6001, 6057 and 6058 FROM ANDREW P. RASMUSSEN (NORTH CENTRAL ADDITION)

A report was filed by the Director of Public Works that the construction of the sewer lateral in Blocks 6000, 6001, 6057, and 6058 (North Central Addition) had been completed by the contractor, Andrew P. Rasmussen, and that acceptance of the project was recommended. Councilman Annan introduced

RESOLUTION NO. 54-11

seconded by Councilman Merrill, accepting the project from Andrew P. Rasmussen, as recommended by the Director of Public Works, authorizing progress payment of \$1,611.75, and the recording of "Notice of Completion" with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

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5 CONSIDERATION OF AGREEMENT WITH BOYCE ASHFORD FOR PURCHASE OF PROPERTY IN ASHFORD ADDITION

City Attorney Grimes presented for the Council's consideration, an ordinance providing for the execution of an agreement with C. Boyce Ashford and Frances E. Ashford, calling for the purchase of approximately 5 acres of land by the city in the Ashford Addition to be used for a park site. He outlined the provision of the agreement, which provided for purchase of the land for \$13,267.50, dedication of certain land by the seller for street purposes, and the farming of the property by the seller for a limited time.

A discussion was held by the Council on the advisability of entering into an agreement with Mr. Ashford before the Modesto School District had actually purchased a school site in the Ashford Addition, since the original plan called for the improvement of the park in conjunction with the adjoining school property. It was brought out in the discussion that the net cost to the city would only be approximately \$800, since proceeds from the sale of the park area in the College Village Addition to Dalton P. Ellis would be \$6,675, and that there was available at the present time, approximately \$5700 in the Park and Recreational Facilities Fund, which had been derived from payment made by subdividers, as provided by Subdivision Ordinance No. 1041-N.S., for park purposes. Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 1103-N.S.

entitled: "AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY FROM C. BOYCE ASHFORD AND FRANCES E. ASHFORD FOR USE BY THE CITY OF MODESTO", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

6 MAYOR APPOINT COUNCILMAN ANNAN REPRESENT CITY AT CHAMBER OF COMMERCE LUNCHEON

Mayor Marks appointed Councilman Annan to represent the Council at the Chamber of Commerce luncheon on Jan. 18th.

7 CONSIDERATION OF AGREEMENT FOR SALE OF CERTAIN PROPERTY TO DALTON P. ELLIS

Councilman Merrill moved the introduction and passage to print of  
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of

## ORDINANCE NO. 1104-N.S.

entitled: "AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY TO DALTON P. ELLIS BY THE CITY OF MODESTO", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE AGREEMENT WITH STOCKTON CONSTRUCTION COMPANY FOR REPLACING OF PAVEMENT ON WOODLAND AVENUE

The Director of Public Works stated that the Stockton Construction Company had requested that the agreement between the city and the company, dated June 12, 1953, for the construction of the sanitary sewer trunk line on Emerald and Woodland Avenues, be modified to permit them to remove the entire concrete pavement now existing on Woodland Avenue and substitute a different type of pavement in lieu of replacing this concrete pavement. The City Attorney presented an agreement for the consideration of the Council, providing for this modification and the posting of a \$4,000 bond to insure maintenance of Woodland Avenue within the length of said sanitary sewer trunk line for a period of one year from and after acceptance of the street work.

The Director of Public Works stated that approval of the change in specifications for the paving of Woodland Avenue had been given by the County Road Commissioner since it was located in the County. Councilman M. Adams introduced

## RESOLUTION NO. 54-12

seconded by Councilman Dan Mellis, approving the agreement between the City of Modesto and Stockton Construction Company providing for modification of agreement dated June 12, 1953, and authorizing execution of agreement by authorized officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

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ACCEPT SANITARY TRUNK SEWER LINE ON EMERALD-WOODLAND-COLDWELL AVENUES FROM CONTRACTOR, STOCKTON CONSTRUCTION COMPANY

The Director of Public Works filed a report that the construction of the sanitary trunk sewer line on Emerald-Woodland-Coldwell Avenues, had been completed by the contractor, Stockton Construction Company, and that acceptance of the project was recommended. Councilman Merrill introduced

RESOLUTION NO. 54-13

seconded by Councilman M. Adams, accepting the sanitary trunk sewer line completed by the said company at the above described location, authorizing progress payment of \$750, directing the City Clerk to record "Notice of Completion" with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

A RESOLUTION GRANTING REQUEST OF CHARLES V. SALES DBA CITY CAB COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE ONE ADDITIONAL TAXICAB

As requested by the Council, the City Attorney presented for its consideration a resolution granting the request of Charles V. Sales dba City Cab Company, to operate one additional taxicab. Councilman R. Adams introduced

RESOLUTION NO. 54-9

seconded by Councilman Mellis, approving the application of Charles V. Sales for a Certificate of Public Convenience and Necessity to operate one additional taxicab, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

REPORT ON REQUEST OF TAXICAB OPERATORS FOR EMERGENCY LEGISLATION

Since the strike of the taxicab drivers had been settled, the Council agreed that it was not necessary to discuss the possibility of adopting emergency legislation regulating the hauling of passengers free of charge, as requested by the taxicab operators.

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12 CONSIDERATION OF AGREEMENT WITH C. D. NATTINGER FOR CITY AUDIT DEFERRED

Consideration of agreement with C. D. Nattinger, C.P.A., for the audit of the city records for year 1953-54, was deferred until a later meeting so that Mr. Nattinger could check over the agreement.

13 RESOLUTION ESTABLISHING INTERIM POLICIES GOVERNING THE USE OF THE L. J. MADDUX YOUTH CENTER BUILDING

As requested by the Council, the City Attorney presented for its consideration a resolution establishing interim policies governing the use of the L. J. Maddux Youth Center Building, Councilman Mellis introduced

RESOLUTION NO. 54-8

seconded by Councilman R. Adams that the following interim policies governing use of the L. J. Maddux Youth Center building and the interim schedule of fees for the rental be established:

- 1-Days available. The Youth Center building will be available for use Mondays through Saturdays and will be closed Sundays.
- 2-Supervision Any group or organization using the Youth Center building will be required to provide competent, responsible, adult supervision throughout the time the building is in use.
- 3-Reservations. Any group or organization desiring to use the building shall make application to the Director of Recreation, who shall be charged with the responsibility of processing the same. Use by community, civic, and service organizations not directly and primarily related to youth must be requested and scheduled at least 30 days in advance.

4-Schedule of priorities

	<u>Rental Fees</u>		
	<u>Morning</u> 9-1	<u>Afternoon</u> 1-5	<u>Evening</u> after 6 P.M.
Activities conducted by Recreation Department	no charge	no charge	no charge
Youth groups	\$2.50	\$2.50	\$5.00
Adult organizations directly and primarily related to youth	5.00	5.00	10.00
Community, civic and service organizations not directly and primarily related to youth	7.50	7.50	15.00

- 5-Pending establishment of detailed rules and regulations further governing the use and operation of the Youth Center building, the Director of Recreation shall take such actions as are necessary to assure orderly management of the facility and protection of the building and its premises in connection with use by any group or organization. Failure of an applicant to comply with the rules and regulations governing the use of the Youth Center shall constitute grounds for refusal of the right of subsequent use thereof.

which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

The City Attorney pointed out that the closing of the center on holidays was not considered advisable since many time activities are planned for holiday periods.

#### DISCUSS APPOINTMENTS TO BOARDS AND COMMISSIONS

##### Personnel Commission

Mayor Marks reported that as requested by the Council he had contacted Herbert Buxton and that he had agreed to reappointment on the Personnel Commission. It was moved by Councilman Arata, seconded by Councilman R. Adams and unanimously carried, that the City Attorney be instructed to draft a resolution reappointing Mr. Buxton on the Personnel Commission for a period of 4 years, beginning Jan 1, 1954.

##### Library Board

John Gorman had also agreed to reappointment on the Library Board, Mayor Marks reported. It was moved by Councilman Arata, seconded by Councilman R. Adams and unanimously carried that the City Attorney be instructed to draft a resolution reappointing Mr. Gorman on the Library Board for a period of four years, beginning Jan 1, 1954.

##### Parking Authority

Mayor Marks suggested that appointments to the two vacancies on the Parking Authority, be delayed for a period of approximately 3-4 weeks until the parking program now under consideration is further developed.

The City Attorney stated that under the city charter the two members, whose term expired on January 1, 1954, continued to be participating members until their reappointment or appointment of their successors.

The City Attorney reported that he had been contacted and the suggestion had been offered that the Council appoint several of its members to act as a committee to meet with representatives of the Parking Authority and the Chamber of Commerce Off-Street Parking

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Committee to study the parking problem since it was a detailed problem and it would take considerable time to work out the details. He pointed out that this suggestion had some merits and the possibility could be explored by the Council. He pointed out the success of the various committees appointed by the Council on other problems, such as the building code and the plumbing code.

Mayor Marks questioned the advisability of this suggestion since the parking problem was so close to a solution and it might "reopen the whole problem and plunge it into a state of confusion". He stated that the only question to be worked out was the problem of participation and the extent of participation by the property owners since all the facts had been distributed to the interested parties on the costs and methods of the solution of this problem.

It was agreed by the Council that the Council as a whole, should act as a committee to meet with the Chamber Committee and the Authority in a public meeting, open to the press, and other interested parties. Councilman Arata moved, seconded by Councilman M. Adams and it was unanimously carried, that the Council as a whole act as a committee to meet with the Parking Authority, members of the Chamber Off Street Parking Committee and other interested parties in a public meeting, to be held in the Council Chambers, at 8:00 P.M., January 20, 1954, to discuss the solution of the parking problem and that the City Clerk be instructed to notify the members of the Authority and the Chamber Committee of the time and place of the meeting.

#### Board of Plumbing Examiners

Both City Attorney Grimes and Acting City Manager Shelton stressed the importance of immediate consideration of appointments to the three vacancies on the Board of Plumbing Examiners, since there were many applicants for examinations and the matter for the precise procedure in giving these examinations would have to be worked out by the Board. Appointments on the board to be considered, as provided by Ordinance No. 1100-N.S., the City Attorney stated, are, a Master Plumber, a Journeyman Plumber, and a person engaged in business in the city as an

appliance dealer. Mayor Marks asked the Council members to submit names for consideration by the next meeting so that appointments could be made.

Planning Commission

Mayor Marks pointed out that the attendance record of E.J. Boundey on the Planning Commission and his general knowledge of the planning problems of the city placed him in line for reappointment. Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried, that the City Attorney prepare a resolution for consideration of the Council, reappointing Mr. Boundey on the Planning Commission for a term of four years from Jan. 1, 1954.

APPROVE AGREEMENT WITH F. N. RUMBLEY CO. FOR SEWER SERVICE McHENRY AND GRANGER AVENUES

The Acting City Manager reported that application had been filed by F. N. Rumbley Company for sewer service for its property at the southeast corner of Granger and McHenry Avenues, outside the city limits, and that the company had agreed to annexation of its property to the city at the earliest possible time in accordance with the established policy of the Council. The City Attorney outlined an agreement which he had prepared for the Council's consideration granting this service under the usual arrangements, Councilman Mellis introduced

RESOLUTION NO. 54-14

seconded by Councilman M. Adams, approving the agreement between the city and F. N. Rumbley Company for sewer service and authorizing the execution by authorized city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

AUTHORIZE CERTAIN CITY OFFICIALS TO APPEAR AT THE HEARING OF THE ASSEMBLY SUB-COMMITTEE ON ANNEXATION AND RELATED PROBLEMS AND ASSEMBLY SUB-COMMITTEE ON COUNTY AND COMMUNITY PLANNING

The City Attorney reported that both the Mayor and he had completed their presentations for the hearing of the Assembly Sub-committee on Annexation and Related Problems which was to be held January 14 at 9:30 P.M., at the County Center #3 and asked for authority from the

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Council for various officials to appear and represent the City of Modesto. Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that Mayor Marks, City Attorney Grimes, City Manager Miller and Director of Planning Bills be authorized to represent the City of Modesto at the hearings of the Assembly Sub-Committee on Annexation and Related Problems and the Assembly Sub-Committee on County and Community Planning, to be held on January 14 at 9:30 P.M. and 1:30 P.M at the County Center #3.

REPORT ON SPACE REQUIREMENTS FOR CERTAIN CITY OPERATIONS

Copies of a preliminary and tentative report entitled, "Estimate of Space Requirements", dated January 12, 1954, were distributed to the Council members for their study, by Acting City Manager Shelton, showing the present actual space, the tentative present need, and preliminary estimates of needs for a city of 50,000 population and a city of 100,000 population. The report covered offices presently located in the City Hall, the City Attorney's office and the Police Department.

Councilman Merrill stated that many organizations had requested permission to use the old John Muir School building and he urged that the Council give immediate consideration to the question of whether the building was to be used as a temporary City Hall or as a community building since it was deteriorating.

It was brought out that the first report on estimated space requirements had been submitted last October both to the Council committee studying feasibility of the use of Old John Muir School for city purposes, and to the Council as a whole. This second report had been requested in view of the effects of recent large annexation, and for purposes of the Forward Modesto Committee. The question of the cost to the city of the present manner of maintaining various city offices in different locations was brought up.

GRANT LEAVE OF ABSENCE TO COUNCILMAN LYNDALL O. MERRILL

At the request of Councilman Lyndall O. Merrill, Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried,  
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that permission to leave the state for a period of approximately one month, beginning January 19th be granted Councilman Merrill.

RECOMMENDATION FOR REVISION OF BUSINESS LICENSE ORDINANCE

Councilman R. Adams recommended that prompt consideration be given to the revision of the present business license ordinance so that the following inequities could be modified:

- 1-So that outside concerns would not be permitted to load and/or unload in the city and only pay a \$5.00 per quarter license, while a city merchant in the same type of business, is required to pay a \$10.00 a year registration fee, plus a license fee of two mills on his gross receipts, which is usually more than the outside concern is paying.
- 2-So that a licensed city contractor will not be required to pay a mill license fee on contracts done outside the city or state.

Councilman R. Adams moved, seconded by Councilman M. Adams, which was unanimously carried, that the City Manager and City Attorney make a study of these problems and submit a report to the Council with suggested alternatives for correction of these inequities.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman R. Adams, and it was unanimously carried, that the special Council meeting now in session be adjourned.(7:30 P.M.)

  
ATTEST: REX E. GAILFUS, CITY CLERK

Council Meeting

January 13, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Ordinance No. 1084-N.S.

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1102-N.S. ZONING NORTHWEST ADDITION

Ordinance No. 1102-N.S. entitled : "AN ORDINANCE AMENDING SECTION 2 of ORDINANCE NO. 700-N.S., AS AMENDED, BY ADDING USE DISTRICT MAP NO. 9 THERETO FOR THE PURPOSE OF ZONING THAT CERTAIN TERRITORY IN THE CITY OF MODESTO KNOWN AS THE 'NORTHWEST ADDITION'", having been heretofore introduced and ordered printed and published at the regular meeting of January 6, 1954, Councilman R. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill

Noes: Councilmen: Mayor Marks

Absent: Councilmen: None

Mayor Marks stated, "as provided by Ordinance No. 1084-N.S. (Procedural Ordinance), that the minutes should indicate that the reason he voted 'no' was that he believed the zoning of the Northwest Addition as provided in Ordinance No. 1102-N.S. was not in the public interest and welfare.

ADJOURNMENT

Upon motion of Councilman R. Adams, seconded by Councilman Arata, which was unanimously carried, the meeting was adjourned.

ATTEST:  REX E. GAILFUS, CITY CLERK

Council Meeting  
January 20, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M. as provided by Ordinance No. 1084-N.S.

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

Invocation was given by Rev. N. Gosselink of Paradise Community Reformed Church.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor  
Marks

Absent: Councilmen: Merrill

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meeting of November 24, 1953, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### AUTHORIZE AGREEMENTS WITH LOUIS J. KROEGER & ASSOCIATES

City Manager Miller reported that the classification survey being conducted by Louis J. Kroeger & Associates was near completion and he asked that the Council consider two other matters relating to personnel problems so that the city could take advantage of the services of this concern while their representative, Elwood Ennis, was still in the city. This concern has submitted a proposal to:

1. Prepare a complete set of personnel rules for the City, which would be based on pertinent provisions of the City Charter and the existing Personnel ordinance, at a cost of \$250.00
2. Conduct an administrative study of the Public Works Department which would include an analysis of the existing assignment of functions, delegation of duties and authority and responsibility to subordinate personnel, a study of the paper work within the department (which would involve the Finance Department), development of

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criteria for a minimum program of cost accounts, problem of equipment management, a study of physical facilities now available and suggestions for maximum utilization, at a cost of \$1450, which would be completed by March 12.

He pointed out that the company was well qualified to do this type of work and that the costs of the projects would be paid for many times by the savings afforded, and that their knowledge of the city operation would enable them to do it more economically.

Mr. Ennis stated that his concern would work closely with the personnel and as the work progressed, memorandums would be issued putting the recommended changes in effect so that when the project was completed most of the changes would be underway.

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Attorney be instructed to prepare, for the consideration of the Council, agreements as outlined in the proposals of Louis J. Kroeger and Associates, dated January 19, 1954, for a set of personnel rules and an administrative study of the Public Works Department.

REQUEST OF MILK PRODUCERS ASS'N TRANSPORT COWS THROUGH CITY STREETS TO  
ADVERTISE NEW TYPE MILK "JERSEY-GUERNSEY"

A letter from the Milk Producers Association requesting permission to haul two cows and their calves in a display truck around the city to advertise the starting of their new type milk, "Jersey-Guernsey," was read.

The City Attorney questioned the basis the Council could make exceptions to Ordinance No. 584-N.S. and grant these requests since the ordinance provided that,

"It shall be unlawful for any person, firm, corporation or association to drive in, upon, or over the streets of the city, any vehicle solely devoted to the purpose of advertising except in duly authorized parades."

Whether a standard such as groups sponsoring the project as against an individual, or some other system, such as a curiosity or a novelty could be established for the granting of permits was discussed.

The following points were brought out in the general discussion which followed:

1. That the Milk Producers was a large company, employing a

large number of employees and that it would be for the interest of the community to grant the request.

2. That it would be hard to "draw the line" in the granting of permits since most anything could be considered "for the good of the community," and that there would be a constant parade through the city.
3. That the ordinance should be amended to more clearly define the cases when permits could be granted.

Councilman Arata moved, seconded by Councilman Annan that the Milk Producers Association be granted permission to haul the cows and calves through the city streets for three days January 21, 22, and 23, subject to condition that the city should be held harmless from any and all costs, damages, and liability arising out of the display or use of this truck. Mayor Marks declared the motion carried.

Councilman M. Adams stated that he was not averse to helping the rural industries but that until the ordinance was cleared, defining the cases where permits could be granted by the Council he believed that permits should not be granted. Mayor Marks also stated that pending redrafting of the ordinance it was his opinion that permits to use the city streets, such as this one, should not be granted.

The City Attorney was instructed to contact other cities and the League of California Cities to determine if there is any way to "draw the line" and the methods used by other cities.

Pending the redrafting of the Ordinance, it was agreed that all requests should be considered individually by the Council.

LETTER FROM CULINARY WORKERS AND BARTENDERS UNION LOCAL NO. 542

A letter from the Culinary Workers and Bartenders Union Local 542 opposing any attempt to license individuals engaged in "the mixing and serving of alcoholic beverages," was read. Acknowledgment of the letter was directed, with the statement that this question was not before the Council as a legislative matter at this time.

ARCHITECT RUSSELL DELAPPE OFFER SERVICES TO CITY IN BUILDING PROGRAM

Architect Russell DeLappe appeared before the Council and offered his services to the city for any building program which might be proposed

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by the Forward Modesto Committee. He filed a copy of a report on a survey just completed for Humboldt County.

He was informed by the Council that the program which the committee was considering was a long range building program and that it would be some time before the city would actually arrive at the point where architectural services would be needed in its building program.

The possibility of using the old John Muir School building for a temporary city hall (10-15 years) or as a community building was brought up by Councilman Mellis. It was agreed by the Council that Mr. DeLappe's experience would enable him to offer suggestions to the Council committee and he was asked to confer with the committee in the near future, and that on his investigation that he should take into consideration the availability and accessability of the school building when considering whether it could be used as a city hall.

OFF-STREET PARKING COMMITTEE OF CHAMBER OF COMMERCE FILE PROPOSED PROGRAM FOR SOLVING OFF STREET PARKING PROBLEM IN THE BUSINESS DISTRICT

Mayor Marks reported that due to the conflict with the farewell dinner scheduled for John Fairweather, Manager of the Chamber of Commerce that it had been necessary for the Council to call off the meeting with the off-street parking committee from the Chamber, and the Parking Authority, which had been set for 8:00 P.M. this date. However, he continued, the committee, due to the urgency of the parking problem, had requested permission to present its proposed program to the Council at this meeting, to enable the Council and Authority to consider the proposals without further loss of time.

Hubert Scott, Chairman of the Committee, filed copies of the committee's proposed program, (copy of which is on file in the City Clerk's office). The recommendations of the report were as follows:

"We feel that if other cities, with situations comparable to those which exist in Modesto, find it possible to provide the necessary off-street parking without the necessity of participation, Modesto should be able to do likewise. However, to expedite the matter, and to avoid further delays which might be occasioned by controversy on the subject, and in the interest of community harmony, this committee will be glad to use its best efforts to secure the participation of Modesto downtown property owners to the

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extent of 25% of the total amount of the bond issue, subject to your acceptance of the following recommendations.

- (a) That the City Council submit, for the approval of the citizens of Modesto, a charter amendment making possible the acquisition and improvement of such off-street parking lots as may be agreed upon as necessary, and in conformity with the suggestions herein contained and give such proposal its vigorous support.
- (b) That the City of Modesto agree that 75% of the gross total of both on-street and off-street meter revenue shall be used for servicing the necessary Revenue Bonds, and obtaining more off-street parking as may be required.
- (c) Because of the fact that any city in using Revenue Bonds must set up a reserve of 50% of the annual interest and principal requirements, and is allowed to use this reserve to pay off distant maturity bonds, (which, in fact, make it possible to retire thirty year bonds in approximately eighteen and one-half years) we think it advisable to issue thirty year bonds, the same as Sacramento and Fresno have done. By so doing, more money can be obtained on the thirty year plan for less annual charge. (As an example: it would take \$110,370.00 per year to pay interest and principal on \$1,000,000 worth of twenty year bonds at 4%, while only \$86,750.00 per year would be required to pay interest and principal on \$1,000,000 worth of thirty year bonds at 4%.) Both examples are based on 150% of the actual interest and principal requirements. The 50% is for reserve, and for paying off distant maturity bonds prior to maturity.

In this connection we urge that at least three bond houses, experienced and conversant with this type of financing, be invited to advise with the City Council and this committee as to the details of procedure. After a definite plan has been arrived at, as a result of these preliminary discussions, it is suggested that the City Council call for bids from the several bond houses covering their services as consultants.

- (d) We request that the proposed charter amendments have the approval of this committee before they are actually submitted to the public for its approval.
- (e) Upon approval by the citizens of Modesto of the Charter Amendments, we believe that a recognized traffic engineering concern should be employed to make a survey as to the best locations of the off-street parking sites, and we ask that the results of such a survey be submitted to this committee for its consideration and approval.
- (f) The object of this proposal shall be to issue \$1,000,000 worth of Revenue Bonds, to which would be added the sum of \$250,000.00 from property owner participation, making a total of \$1,250,000.00 to be used to buy sites and improve them, and possibly to pay for double decking some of those sites.

We assume that such parking meter funds as are now on hand, and those accumulated between now and the issuance of the bonds, will be used to pay the cost incident to

engineering, legal services, election expense and bond consultants fees, and that any residue will be added to other funds authorized for acquisition of off-street lots and their improvements.

- (g) It is our belief that the downtown business district, as described and shown on accompanying map, subject to such changes as may be recommended by the traffic engineers, should be included in one assessment district.

#### DESCRIPTION

Commencing at the corner of 9th Street and L Street - thence along 9th Street to G Street - thence along G Street to 13th Street - thence along 13th Street to K Street - thence along K Street to 12th Street - thence along 12th Street to L Street - thence along L Street to the point of beginning.

It would be the desire of this committee to cooperate with you in the actual working out of the assessment plan, which we believe should be based on the square footage of the land area.

If the City Council will adopt this plan of procedure, the members of this committee will personally use their best efforts to contact both the local, and out-of-town property owners to secure their approval of the above suggested 25% participation."

A general discussion was held on the program and the following points were brought out:

1. That it was merely the thought of the Chamber of Commerce Committee, in requesting that it be permitted to approve the results of the traffic engineer investigations, to give him the benefit of the committee's local knowledge of the parking problems.
2. That the Council could not allocate its responsibility or abdicate its authority to the committee but that the committee would be consulted in an advisory capacity.
3. That the responsibility for the off-street parking program was vested in the Parking Authority by the Parking Law of 1949.

The question was brought up if the Council by charter amendment was authorized to sell the bonds, should they hire the traffic engineer and the financial consultant.

4. The committee pointed out that the people who buy the revenue bonds will only recognize surveys conducted by certain approved engineers and that Gordon Whitnall, Parking Consultant, who has been hired by the city and has already made a survey is not on the "approval list" by the bond houses. It was pointed out that the bonds would not be marketable if the survey was not conducted by an approved engineer.
5. The committee pointed out that by using the thirty year plan for the bonds that there would be a less annual charge and that the city by setting up a reserve of 50%

of the annual interest and principal requirements, is allowed to use this reserve to pay off distant maturity bonds and it would be possible to retire thirty year bonds in approximately eighteen and one-half years.

6. That it would be possible to retain the Parking Authority, although the bonds might be issued in the city's name.
7. That when any one facility was purchased and developed it was to be financed four-fifths by public funds and one-fifth by property owner funds. That although the report refers to 25% participation by the downtown property owners that it would only be 20% participation of the whole program.
8. That it was the thought of the committee to obtain options on as much property as the bond issue would purchase at one time, instead of by "piece-meal" method of purchase, and thus save money.

Councilman Annan recommended that as a matter of proper  
be taken

procedure that no action/or recommendation be made by the Council until the Parking Authority had an opportunity to study the proposed program presented.

Mayor Marks expressed the opinion that it would be better for the Authority to handle the whole parking problem instead of the Council and he outlined various advantages and disadvantages for retaining the Authority.

Councilman R. Adams recommended that a joint meeting be held with the committee, Authority and Council and all interested groups to clarify the basic principles of the program proposed so that immediate action could be taken to get the program started.

Chairman Scott stated that the reason the program had been filed direct with the Council was that the request had been given the committee by the Council and that the committee would be glad to make a study on the advisability of retaining the Parking Authority. If it is retained, he stated, the committee would like to offer the suggestion that when future appointments are considered, that a representation from the central part of town be considered.

Councilman R. Adams moved, seconded by Councilman Mellis and it was unanimously carried that the proposed parking program filed by the Off-street Parking Committee be referred to the Parking Authority for its consideration and that the Council meet with the Authority, the committee and

other interested parties at 7:30 P. M., January 28, in the Council Chambers to further discuss the program proposed by the committee.

HEARING ON PROPOSED ANNEXATION OF WEST DOWNEY ADDITION

Mayor Marks declared the hearing open for the consideration of the petition of Charles T. Chadwick, Martin Wilkinson, Charlie and Marian Carabajal for the annexation of the West Downey Addition to the city and for the hearing of protests to the proposed annexation.

The City Clerk filed a statement that the notice of the hearing had been published in accordance with the law and that no written protests had been filed. After the Mayor had ascertained that no oral protests were to be filed, he declared the hearing closed. Councilman Annan moved the introduction and adoption and passage to print of

ORDINANCE NO. 1105-N. S.

entitled: "AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE WEST DOWNEY ADDITION TO THE CITY OF MODESTO", which motion being duly seconded by Councilman Arata, was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

The City Attorney asked the Council if they wished to consider the adoption of a resolution withdrawing the West Downey Addition from the McHenry Dry Creek Fire District, as required by state law and it was agreed that a check should be made with the district before the resolution was considered.

DISCUSS OFFER OF MERCHANT TO PURCHASE OFF STREET PARKING FACILITIES AS SUGGESTED BY COUNCILMAN MELLIS

Mayor Marks reported that a downtown organization had signified its intention to purchase parking facilities on the basis recommended by Councilman Mellis at the October 28 Council meeting; the Parking Authority to advance 20% of the cost price and the balance of 80% to be paid by the organization, after an agreement had been entered into with the Authority for repayment, by the Authority, without interest of the 80% from revenue

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to be derived from the parking meters installed on the lot over a certain period of time to be agreed on between the Authority and the organization.

City Attorney Grimes questioned whether this organization could legally be left out of any parking improvement district which had been proposed by the off-street parking committee or if any adjustment or credit could be allowed, since it would depend on the location of the parking lots if they would derive a benefit from the lots. It was agreed that no action could be taken by the Council and that it was a problem for the Authority to solve, but that it would not be fair for the organization to be charged twice for parking benefits.

#### REPORT ON LIBRARY FINANCES

The City Manager submitted a report to the Council, (a copy of which is on file in the office of the City Clerk), outlining the events which had transpired in the city's endeavor to secure from the county a more equitable distribution of library costs. This report was accompanied by charts and detailed information regarding the allocation of costs prepared by the City and County Librarian Carl Hamilton.

He stated that section 22105 of the State Education Code provides that if notice is given to the Board of Supervisors on or before the first day of February, after due public notice of such consideration, the tax payers of the city may be relieved of the county library tax in the subsequent fiscal year. If the Council wishes to consider such action this year, he stated, notice would need to be given at this meeting.

Bill Murray, member of the Board of Library Trustees, stated that he had accompanied Mr. Hamilton to a number of Board meetings when the operation of the Library had been discussed and that it had been his personal reaction that progress toward settlement was unsatisfactory, and that he personally believed that the action proposed by the City Manager should be taken.

Mr. Hamilton reviewed the city's endeavors to obtain relief from the present inequitable system of budgeting library costs and stated that each time the subject was discussed by the Board that the answer had been

the same----"the operation of the library cannot be considered separately. It must be considered in the over-all picture of the joint operations of the recreation program airport, jail and other city-county joint operations." However, he continued, "I do feel that we would lose more than we would gain by severing relations with the county and I recommend that no action be taken by the Council at this time." He pointed out that the general trend had been in the past three or four years, for the Board to increase the budgeted amounts for the library operation and that he felt if the joint operations were continued that over a period of a few years the inequities would be equalized. The savings to the city would be relatively small compared to the loss of the present amicable relationship with the county.

Approval of the proposed action was expressed by some members of the Council on the grounds that it would present a long overdue opportunity to sit down with the Board and come to a constructive decision in the operation of the library; other members objected on the premise that it would "impair the good public relations which the city had been building with the county in the past two or three years."

Councilman Annan introduced

RESOLUTION NO. 54-15

seconded by Councilman Arata, fixing the date of Friday, January 29, 1954 at 10 o'clock A. M. in the Council Chambers of the City Hall, as the time and place when the Council will consider the matter of giving the Board of Supervisors of Stanislaus County notice that the city no longer desires to be a part of the Stanislaus County Free Library System, and directing the City Clerk to publish copy of resolution as required by law in the Modesto Tribune.

Before the vote was taken the following discussion took place.

Councilman R. Adams pointed out that it was the Council's responsibility to the taxpayers to save money and that he was in favor of the resolution calling the meeting. If the city owes the county additional money in the joint operations of other departments and records are presented

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which would indicate this condition, the city is willing to assume its obligations.

Mr. Hamilton suggested that if the joint operation was to be discontinued that it be effective next year instead of this year.

Director of Planning Bills pointed out that the cooperation of the county on the planning level on such basic matters as land use plan, street and highway plan had been most agreeable and he expressed the opinion that "separate we are not going to get anywhere for the over-all community." If this resolution is adopted, he stated, it might disturb the spirit of harmony now existing between the city and county.

Councilman Mellis moved that the resolution be amended to provide that the separation of joint operation of the library should be effective as of 1955 instead of 1954, which died for a lack of a second.

Councilman Arata withdrew his second to the original resolution which was then seconded by Councilman M. Adams, and which upon roll call was carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mayor Marks

Noes: Councilmen: Arata and Mellis

Absent: Councilmen: Merrill

Mayor Marks moved, seconded by Councilman Annan and it was unanimously carried that the Mayor be authorized to write a letter to the Board of Supervisors, which would be accompanied by a copy of the resolution, stating that this was the only legal way that the city could protect the right to withdraw from the county library tax this year, and that it would be helpful for the city and county and the Board of Library Trustees to get together and discuss the matter, since the time was so late, and that the purpose of the meeting was to sit down and discuss each matter where there was any cause for differences.

FINAL ADOPTION ORDINANCE NO. 1103-N.S. PURCHASE OF REAL PROPERTY FROM C. BOYCE ASHFORD

Ordinance No. 1103-N.S. entitled "AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY FROM C. BOYCE ASHFORD AND FRANCES E. ASHFORD

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FOR USE BY THE CITY OF MODESTO", having been heretofore introduced and ordered printed and published at the regular meeting of January 13, 1954, Councilman M. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

DISCUSS ZONING OF PROPERTY ON ORANGEBURG AVENUE ADJACENT TO MCHENRY AVENUE-ROBERT CRABB

Robert Crabb, of McHenry Nursery, prospective owner of property on the north of Orangeburg Avenue, starting about 150 feet west of McHenry Avenue, together with Phil Humphreys, appeared before the Council, as a matter of information, to outline the plans for the proposed development of this property as a commercial nursery. Mr. Humphreys stated that it is planned to use the east 25 feet nearest McHenry Avenue, for parking area; commercial buildings are planned within the limits of the commercial zoning as prescribed by the county, prior to annexation (300 feet west of McHenry Avenue). Administrative interpretation by the Planning Department of the interim provisions of the city's zoning ordinance, has indicated that the remainder of the area is zoned as R-A. Plans call for the planting of shrubs and trees in this area.

FINAL ADOPTION ORDINANCE NO. 1104-N.S.-SALE OF REAL PROPERTY TO D.P. ELLIS

Ordinance No. 1104-N.S., entitled: "AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY TO DALTON P. ELLIS BY THE CITY OF MODESTO", having been heretofore introduced and ordered printed and published at the regular meeting of Jan. 13, 1954, Councilman Annan moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

APPROVE AGREEMENT WITH CHESTER D. NATTINGER, C.P.A. FOR AUDIT OF CITY RECORDS

Terms of a proposed agreement between the city and C. D.  
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Nattinger, C.P.A., for the employment of Mr. Nattinger, as the independent certified public accountant for the fiscal year commencing July 1, 1953 and ending June 30, 1954, were outlined by the City Attorney. Councilman R. Adams introduced

RESOLUTION NO. 54-21

seconded by Councilman M. Adams, approving the agreement as outlined and authorizing the execution by authorized officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

APPOINTMENT TO BOARDS AND COMMISSIONS

As requested by the Council, City Attorney Grimes presented resolutions for the consideration of the Council covering the appointments of members to various boards and commissions.

Board of Library Trustees of the McHenry Public Library

Councilman Mellis introduced

RESOLUTION NO. 54-17

seconded by Councilman Arata, appointing John E. Gorman to the Board of Library Trustees of the McHenry Public Library of the city of Modesto, for a term of office which expires on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Personnel Commission

Councilman Arata introduced

RESOLUTION NO. 54-18

seconded by Councilman R. Adams, appointing H. D. Buxton to the Personnel Commission for a term of office which shall expire on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

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Planning Commission

Councilman Arata introduced

## RESOLUTION NO. 54-19

seconded by Councilman M. Adams, appointing E. J. Boundey to the Planning Commission for a term of office which shall expire on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Board of Plumber Examiners

Councilman M. Adams, as chairman of the Council's plumbing committee, recommended the appointment of George H. Hansen, as Master Plumber, C. Harvey Benson, as Appliance dealer, and Jack Kiernan as Journeyman Plumber on the city's Board of Plumber Examiners.

Recommendation of Jack Kiernan, as Journeyman plumber could not be approved since he resided outside the city, and the appointment of Journeyman plumber was held over until the next meeting. Councilman M. Adams introduced

## RESOLUTION NO. 54-20

seconded by Councilman Mellis, appointing the following persons to the Board of Plumber Examiners, as provided by Section 10 of Ordinance No. 1100-N.S. Mark Landquist, City Health Officer, Thomas J. Hermida, Chief Building Official, George H. Hansen, Master Plumber, and C. Harvey Benson, Appliance Dealer, and providing for the drawing of lots for the purpose of determining the length of terms of the Master Plumber and Appliance Dealer (1 year, 2 years or 3 years), at the first regular meeting of the Board, and providing that after the expiration of the term of office of any member first appointed, that all appointments be made for a term of 3 years, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Planning Commission

Councilman M. Adams recommended that Eugene Swartling, 516 N. Covena Avenue, resident of the newly annexed LaLoma Area, be appointed a member of

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the Planning Commission, to succeed Richard Vanderwall, whose term is expiring, and moved, which was seconded by Councilman R. Adams, and it was unanimously carried, that the City Attorney be instructed to draft a resolution for the consideration of the Council appointing Mr. Swartling to the Planning Commission.

It was moved by Councilman R. Adams, seconded by Councilman M. Adams, and unanimously carried, that Mayor Marks be authorized to write a letter of appreciation to retiring member, Richard Vanderwall.

Councilman Annan left the meeting at this time.

ACCEPT DEED FROM A. W. AND LEE VIOLA WINNING (WIDENING OF BRISSMORE AND TULLY)

Upon the recommendation of the City Manager, Councilman R. Adams introduced

RESOLUTION NO. 54-22

seconded by Councilman Mellis, accepting a deed from A. W. Winning and Lee Viola Winning, granting to the city certain property to be used by the city for the widening of Briggsmore Avenue and Tully Road (Caroland Manor #1) and authorizing the recording of said deed with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

AUTHORIZE CANCELLATION OF DOUBLE ASSESSMENT ON 1952 CITY ASSESSMENT ROLL BLOCK 812 LOT 1 and 2 EXCLUDING W 40'

The City Clerk reported that property located in Block 812, lot 1 and 2, excluding W 40', presently owned by Wayne W. Jones, had erroneously been assessed for improvements which had also been included on Block 468, lots 9-12 owned by Bessie Hyman, on the 1952 City Assessment Roll, and requested that the Council authorize cancellation of this double assessment. Councilman M. Adams introduced

RESOLUTION NO. 54-23

seconded by Councilman Arata, authorizing the cancellation of improvement assessment of \$8715.00 and city tax and penalties on the 1952 city assessment roll, in amount of \$119.36, assessed against the property of Wayne W. Jones, being block 812, lot 1 and 2, excluding W 40', which resolution was  
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regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

AUTHORIZE REFUND OF OVERPAYMENT OF SALES TAX TO GALAS BROTHERS DBA HOTEL  
COVELL DINING ROOM AND COCKTAIL BAR

City Clerk & Auditor Rex E. Gailfus reported that Galas Brothers, dba Hotel Covell Dining Room and Cocktail bar, had filed a claim for refund of \$1,265.11, purporting to be an overpayment of city sales tax for the period beginning Dec. 31, 1948 to June 30, 1953, on alcoholic beverages, which was not subject to tax prior to Oct. 1, 1953, (effective date of Ord. No. 1088-N.S. Sales and Use Tax). This claim, he stated, has been audited and found to be in order except for the amount outlawed by the Statute of Limitations, which makes failure to file a claim within the 3 year period, a waiver of any demand for overpayment, making a revised amount of net overpayment of sales tax to the city of \$816.88, without interest. Councilman Mellis introduced

RESOLUTION NO. 54-24

seconded by Councilman Arata, allowing claim of Galas Brothers for over-  
ment of sales tax in the amount of \$816.88, rejecting claim for interest,  
as the overpayment was due to carelessness since other like taxpayers had  
not been paying tax on alcoholic beverages, and said Galas Bros. had equal  
knowledge of the law, which resolution was regularly adopted by the follow-  
ing vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

PROCLAIMING THE WEEK OF JANUARY 25, 1954, AS MODESTO STATE HOSPITAL WEEK

Councilman R. Adams introduced

RESOLUTION NO. 54-16

seconded by Councilman Arata, proclaiming the week of January 25, 1954, as  
Modesto State Hospital Week, and authorizing the City Clerk to transmit  
copies of the resolution to the hospital, as an expression of the apprecia-  
tion of the Council for its fine services which it is rendering, which re-

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solution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

APPROPRIATION TRANSFER FOR INDEPENDENT AUDIT

Upon recommendation of the City Manager, Councilman Arata introduced  
RESOLUTION NO. 54-25

seconded by Councilman M. Adams, approving appropriation transfer of \$1250 from the general reserve fund to miscellaneous unclassified for independent audit of city records for fiscal year ending June 30, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

REPORT ON LEGISLATIVE HEARINGS HELD IN MODESTO JANUARY 14, 1954

The City Attorney reported that the two hearings of the Assembly sub-committees, one on annexation and related problems and one on county and community planning, which had been conducted on January 14, 1954 at the County Center #3 had been most successful.

MEETING OF LEAGUE OF CALIFORNIA CITIES IN OAKDALE

Mayor Marks reminded the Council members and officials of the League meeting to be held in Oakdale, Thursday, Jan 21, 1954.

REPORT ON POSTCARD POLL OF NEWLY ANNEXED AREAS FOR SEWERS AND STREET LIGHTS

The City Manager reported that postcards had been mailed to property owners in the newly annexed areas to determine their interest in street lights and sewers. Of the 1414 cards mailed to LaLoma-Yosemite Addition property owners, 484 had been returned, 334 property owners indicated they want/ <sup>ed</sup> sewers, 141 did not, 238 wanted street lights, 211 did not. 229 cards had been mailed to the Granger Addition and only 82 cards had been returned, of these 52 wanted sewers, 28 did not and 49 wanted lights and 29 did not. In the Fremont Addition 215 cards had been mailed, 116 had been returned with the result that 76 wanted sewers, 36 did not, and on street lights, 56 wanted street lights, and 54 did not.

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The City Manager pointed out that the poll indicated that the property owners were two to one in favor of sewers and asked whether the Council wished to authorize the drawing of plans and specifications for the sewer lines. He suggested that since the response on street lights was so close that another petition be circulated. A discussion was held but no conclusion reached pending further analysis of the polling of annexed areas.

CITY MANAGER REPORTS ON LETTERS FROM BOARD OF FIRE UNDERWRITERS

The City Manager reported that he had received a letter from the Pacific Fire Rating Bureau indicating that the residential fire rate in the LaLoma-Yosemite Addition would be released on January 29 and that there would be a delay of approximately 30 days on the mercantile building rate.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that the meeting now in session adjourn.

The meeting was adjourned at 7:30 P.M.

ATTEST:  REX E. GAILFUS, CITY CLERK

January 27, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P. M., as provided by Ordinance No. 1084-N. S.

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

Invocation was given by Rev. W. R. Baird of the First Christian Church.

Roll call of the Council was taken by the City Clerk and the following members were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Absent: Councilmen: Merrill

APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of January 6 and 13, and the same being available for public inspection, and there being no objections, the minutes were approved.

It was agreed by the Council that in the future it would be in order for any councilman to request unanimous consent for the consideration of important matters, which were not on the agenda, immediately after the approval of the Council minutes.

Rose Vainstein, Field Representative of the California State Library, guest of the Council, was introduced by Librarian Carl W. Hamilton.

APPOINT COMMITTEE TO MEET. WITH REPRESENTATIVES OF THE MODESTO COMMUNITY ATHLETIC ASSOCIATION

Mayor Marks appointed Councilmen R. Adams and M. Adams as a temporary Council committee to meet with the representatives of the Modesto Community Athletic Association relative to the modification of its existing agreement for the use of the municipal baseball park and to report their findings and recommendations to the Council.

LETTER FROM CITY OF MODESTO PARKING AUTHORITY RE: PARKING PROGRAM

A letter, dated January 20, 1954, from the City of Modesto Parking Authority, advising that "active progress of the Parking Authority toward the attainment of an off-street parking program is being delayed pending action of the City Council on the Authority's off-street parking proposal, dated August 28, 1953," was read.

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City Attorney Grimes reported that the proposal of the Chamber of Commerce Off-Street Parking committee, which had been filed with the Council, January 20, and referred to the Authority had been discussed by the Authority at its meeting of January 26. At the direction of the Authority, the City Attorney stated, he had prepared an analysis of the committee's proposal, which the Authority had adopted as its official position in regard to the proposal. Copies of the analysis were distributed to the Council members for their study.

The City Manager advised, that pending a decision on the off-street parking program, that Director of Planning Bills was giving some assistance to the Authority, even though the agreement for his services had expired.

COMMUNICATION FROM PUBLIC UTILITIES COMMISSION

Decision No. 49565 of the Public Utilities Commission in Case No. 5495 on the investigation of the Commission's own motion to establish a list of grade crossings of railroads and city, county or city and county highways, urgently in need of improved protection, and to determine the nature of needed improved protection of such crossings, was briefly summarized by City Manager Miller.

He pointed out that the Commission's decision had been that "requests for allocation will not require a statement of applicant's financial need for assistance", which had been the contention of the representatives from the City of Modesto who had appeared at the hearing and who had urged that allocations not be based upon financial need nor upon the basis of a "pauper clause".

LETTER FROM JACK A. WIER RE: TRAFFIC CONDITIONS (McHENRY AVE. AT ORANGEBURG AND ORANGEBURG AT SYCAMORE AVENUE)

A letter from Jack A. Wier pointing out the difficulty of crossing McHenry Avenue at Orangeburg Avenue, due to the fast moving traffic on McHenry Avenue was read. He also questioned the necessity of the existing two way stop signs at Sycamore and Orangeburg Avenues since this was only a three way street intersection (Sycamore Avenue ending at Orangeburg Avenue).

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Since only the west side of the McHenry-Orangeburg Avenues intersection was in the city, and McHenry Avenue was a state highway, it was pointed out that the solution of this traffic problem would be a joint city, state and county decision.

Councilman Mellis moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Manager and City Attorney be instructed to follow through on the suggestions submitted by Mr. Weir and report their findings to the Council.

APPOINT EUGENE SWARTLING TO PLANNING COMMISSION

As requested by the Council, the City Attorney presented a resolution for its consideration appointing Eugene Swartling to the Planning Commission. Councilman M. Adams introduced

RESOLUTION NO. 54-26

seconded by Councilman Mellis, appointing Eugene Swartling to the Planning Commission of the City of Modesto for a term of office which shall expire on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

A RESOLUTION APPOINTING ROY H. BURROUGHS TO THE BOARD OF PLUMBER EXAMINERS

Councilman R. Adams introduced

RESOLUTION NO. 54-27

seconded by Councilman Arata, appointing Roy H. Burroughs, Journeyman Plumber, to the Board of Plumber Examiners for the City of Modesto in accordance with the provisions of Section 10 or Ordinance No. 1100-N. S. of the City of Modesto and Resolution No. 54-20, adopted on the 20th day of January, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

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PARK AREA IN BLOCK 6068 (Lot 17 and portion Lot 18 Weil Colony) NAMED  
ROOSEVELT PARK

Councilman R. Adams, chairman of the Council committee on the naming of parks, reported that the committee recommended that since the park area in Block 6068 (lot 17 and portion lot 18 Weil Colony) was located contiguous to the Roosevelt School and near the Roosevelt Shopping Center, that the name of Roosevelt be selected for this park area in order to avoid confusion and introduced

RESOLUTION NO. 54-28

seconded by Councilman Mellis, designating the above described park area as Roosevelt Park, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Councilman R. Adams stated that serious consideration was given to a suggestion offered the committee that in naming future parks citizens who have given freely of their time, ability and efforts toward community betterment, should be honored, and that the committee had a number of names to suggest. Citizens now living should also be honored when names are selected for park areas or projects and he offered the suggestion that some worthy project should be named in honor of Frank J. Rossi, former City Engineer, who had given outstanding service to the community for over a quarter of a century. General approval of the suggestion that Mr. Rossi be honored in this manner was expressed by the Council members.

APPROVE AGREEMENTS WITH LOUIS J. KROEGER AND ASSOCIATES

As requested by the Council, the City Attorney presented for its consideration agreements between the City and Louis J. Kroeger and Associates for the preparation of a complete set of personnel rules and an analysis of the organization and administrative practices of the Department of Public Works and other departments directly related to it.

Councilman Annan introduced

RESOLUTION NO. 54-29

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seconded by Councilman R. Adams, approving agreement between the City and Louis J. Kroeger and Associates for the preparation of a set of personnel rules to be filed with the city within 30 days of the date of the execution of this contract at a cost to the city of \$250.00, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

Councilman Annan introduced

RESOLUTION NO. 54-30

seconded by Councilman M. Adams, approving agreement between the city and Louis J. Kroeger and Associates for an analysis of the organization and administrative practices of the Department of Public Works, said analysis to be completed not later than March 12, 1954 at a cost to the city of \$1,450, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ORDINANCE ANNEXING UNINHABITED TERRITORY (ASHFORD ADDITION)

Mayor Marks declared the hearing open for the consideration of the petition of C. Boyce Ashford and Frances Ashford for annexation of the Ashford Addition to the city, and for the hearing of protests to the proposed annexation.

The City Clerk reported that all persons owning property in the addition had been notified, that notice of the proposed annexation had been published as required by law, and that no written protests had been filed.

After Mayor Marks had ascertained that there were no oral protests, he declared the hearing closed.

Councilman Arata moved the adoption and passage to print of

ORDINANCE NO. 1106-N.S.

entitled: "AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE

ASHFORD ADDITION TO THE CITY OF MODESTO", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and the ordinance ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REQUEST OF SHELL OIL COMPANY FOR MODIFICATION OF ORDINANCE NO. 1086-N.S. RELATING TO SERVICE STATION TO BE CONSTRUCTED AT TULLY AND ROSEBURG AVES.

Mayor Marks declared the hearing open on the appeal of the Shell Oil Company for modification of section 4 of Ordinance No. 1086-N.S., as related to street openings for a service station at Roseburg and Tully Avenues.

Mr. Philip B. Smith, District Representative of the Company stated that the maximum width of 30 ft. for driveways and the provision that the land devoted to driveways shall not exceed 40% of the frontage upon any street of the lot to be served, as provided in Ordinance No. 1086-N.S. would not give adequate access to the lot and stated that the company was asking for permission for two 36 foot curb cuts on each street, Tully and Roseburg.

Councilman Annan questioned if by granting this variance, a precedent would be established for future requests. It was pointed out that the driveways of the service stations already constructed in the downtown area where parking needs were so urgent were larger than the 30 feet established in the ordinance and that it would be difficult for a truck and trailer to make deliveries to the stations if sufficient space was not allowed. Mayor Marks declared the hearing closed. Councilman Arata introduced

RESOLUTION NO. 54-31

seconded by Councilman Mellis, approving the request for variance from the provisions of section 4 of Ordinance No. 1086-N.S., and granting request for two 36 foot curb cuts on Roseburg Avenue and two 36 foot curb cuts on Tully Avenue, at locations to be approved by the Director of Public Works, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Arata, Annan, Mellis and  
 Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

CITY MANAGER REPORTED ON SERVICE STATION BEING CONSTRUCTED AT INTERSECTION  
 OF COLDWELL AND TULLY AVENUES

The City Manager reported, when asked by Councilman Mellis, that the company constructing the service station on the corner of Coldwell and Tully Avenues had agreed to move back the sign, floodlight and curbs at its own expense to any future set back lines established on these streets.

REQUEST OF BEARD LAND & INVESTMENT COMPANY FOR MODIFICATION OF ORDINANCE  
 NO. 1086-N.S. RELATING TO SERVICE STATION BEING CONSTRUCTED AT YOSEMITE  
 AND PHOENIX AVENUES.

Mayor Marks declared the hearing open on the appeal of the Beard Land & Investment Company for modification of the provisions of section 4 of Ordinance No. 1086-N.S. as related to street openings for a service station at Yosemite Blvd. and Phoenix Avenue. (Shell Oil Company service station)

The City Manager reported that the company was requesting two 38 foot curb cuts on Yosemite, two 36 foot curb cuts on Phoenix, and that the sidewalks and driveways be constructed with asphaltic concrete.

Director of Public Works Ray pointed out that since the city has not taken over the maintenance of Yosemite Boulevard by agreement, which is a state highway, he questioned if permits for driveway approaches and curb cuts could be issued by the city.

Mr. Smith, representing the Shell Oil Company, stated that the extra cost to the company for the installation of concrete instead of asphaltic concrete sidewalks and driveways would be approximately \$1,000. It was brought out in the discussion that the city ordinance did not require the installation of sidewalks but only that sidewalks not be constructed of asphaltic concrete.

Clyde Oden, representative of the Beard Land and Investment Company, brought up the point that the city would not be setting a precedent by granting permit to construct asphaltic cement sidewalks and driveways since the contract for the station had been negotiated prior to the

annexation of the property to the city. However, the Council agreed that the city's construction requirements should prevail on annexed property, after being polled by Mayor Marks. Mayor Marks declared the hearing closed.

Councilman Annan introduced

RESOLUTION NO. 54-32

seconded by Councilman Arata, granting the request for modification of section 4 of Ordinance No. 1086-N.S.; approving the granting of two 38 foot curb cuts on Yosemite Boulevard, and two 36 foot curb cuts on Phoenix Avenue with the location to be approved by the Director of Public Works, and that the request for permission to install asphaltic concrete sidewalks and driveways be denied, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

DISCUSS REVISION OF ORDINANCE NO. 1086-N.S. AS RELATED TO SERVICE STATIONS

The City Manager asked if the Council wished to consider the amendment of Ordinance No. 1086-N.S. so that curb cuts for filling stations could be granted administratively, since the provisions of the ordinance did not meet the needs of many filling stations. He also suggested that the provision requiring that notice be given to applicant for an appeal five days prior to date of hearing be revised so that this requirement could be waived at the time application is made and the date for the hearing could be agreed on at that time.

The City Attorney differed with this suggestion and stated that the Council already had authority to accept a waiver of the time and that he thought it advisable for the Council to consider location, type and other factors before granting modifications, and that city standards which had been set up should not be "watered down".

Mayor Marks suggested that these problems be cleared by the City Manager and City Attorney, and if an amendment was indicated that it be

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prepared and presented for the Council's consideration.

REQUEST OF UNION OIL COMPANY FOR VARIANCE FROM PROVISIONS OF ORDINANCE NO. 1086-N.S.

A request for variance from the provisions of Ordinance No. 1086-N.S. as related to sidewalks and driveways, proposed for its service station to be constructed on McHenry Avenue and Judith Lane, was considered by the Union Oil Company.

The City Manager stated that no action was necessary at this time by the Council, since the hearing would be set by the City Clerk for a later meeting.

ACCEPT DONATIONS TO L. J. MADDUX YOUTH CENTER CONSTRUCTION FUND

The City Manager reported that donations of \$100 each had been received from the following plumbing concerns: Archie L. Gray & Son, Fischer & Peterson, Fred L. Hill and Baker Newman Company, which is to be applied toward the plumbing bill of the plumbers furnishing the materials for the completion of the L. J. Maddux Youth Center. Councilman Annan introduced

RESOLUTION NO. 54-35

seconded by Councilman Mellis, accepting donations in the sum of \$400, which had been received from the aforementioned companies and appropriating the said \$400 to the L. J. Maddux Youth Center Fund to be used for the purpose of construction of the Maddux Youth Center, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Assistant City Manager Shelton reported that George Hansen of Hansen's Plumbing Company had also donated materials valued at \$100 for the center.

The City Manager reported that a donation of \$100 had been received from the Modesto Jay-Cee-Etts and a donation of \$5.00 from the Neighbors of Woodcraft, Modesto Circle #443, for the furnishing of the Youth Center. Councilman R. Adams introduced

RESOLUTION NO. 54-36

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seconded by Councilman Annan, accepting said donations and appropriating said \$105 received for the furnishing of the Youth Center for expenditure from the "Youth Center Furnishing Fund" by the Recreation Department for capital outlay expenditures, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

It was moved by Councilman Arata, seconded by Councilman R. Adams, which was unanimously carried, that Mayor Marks be authorized to write a letter of appreciation to each of the parties donating funds to the L. J. Maddux Youth Center Fund and the Youth Center Furnishing Fund.

16 APPROVE AGREEMENT WITH EUGENE K. STURGIS--IMPROVEMENT DISTRICT NO. 2

The City Attorney presented for the consideration of the Council an agreement between the city and Eugene K. Sturgis, legal consultant, relative to the special improvement district #2, which he stated had been requested by the City Manager and the Director of Public Works.

The City Manager stated that this district would include the North Central Addition and possibly the Fremont and Granger Additions.

Councilman Mellis introduced

RESOLUTION NO. 54-34

seconded by Councilman R. Adams appointing Eugene K. Sturgis as special counsel to supervise proceedings and to prepare the necessary legal documents and proceedings for construction of improvements by special improvement proceedings in "Improvement District No. 2" and authorizing the execution of agreement by the City Manager and the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

17 REPORT ON POST CARD POLL FOR SEWER AND LIGHT IN ANNEXED AREAS

The City Manager asked whether the Council wished to authorize the

preparation of plans and specifications for sewers in the Fremont Addition, since the result of the post card poll had indicated that the property owners were in favor of the installation of sewers by 2 to 1. A further check should be made in the Granger Addition, he stated, since a smaller per cent of the cards had been returned.

A general discussion was held by the Council on the advantages and disadvantages of combining the Fremont, Granger and North Central Additions in one improvement district; one advantage being that the overhead expenses for the district would be less which should be weighed against the disadvantages of the possibility of delay in completion of a large district which would not permit the use of the improvements until the entire district was completed, since it would be the property of the contractor until the project as a whole had been accepted. A separate district for the LaLoma-Yosemite area was considered desirable. It was pointed out that it would be several weeks before the territories to be included in Improvement District #2 need be determined.

Councilman Mellis moved, seconded by Councilman Annan, and it was unanimously carried, that the City Manager be authorized to prepare plans and specifications for the sewer laterals in the Fremont Addition. After a general discussion by the Council on the desirability of including both lights and sewer in the new additions, Councilman Mellis amended his motion to authorize the City Manager to prepare plans and specifications for both the sewers and lights in the Fremont Addition, which was seconded by Councilman Annan and unanimously carried.

ACCEPT BID OF JESSE E. WAGONER FOR CONSTRUCTION OF PUMP STATION NO. 16

Tabulation of the four bids received for the construction of pump station No. 16, which had been opened at 2:00 P. M., January 25, were distributed to the Councilmen by the Director of Public Works for their study. He recommended that the low bid of \$1,389.17, submitted by Jesse E. Wagoner, be accepted. Councilman Mellis introduced

RESOLUTION NO. 54-33

seconded by Councilman R. Adams, accepting the bid of Jesse E. Wagoner,

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as recommended by the Director of Public Works, as it was the lowest bid submitted, and authorizing the execution of agreement for completion of the work by the authorized official, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ANNUAL FINANCIAL REPORT ON FISCAL YEAR ENDING JUNE 30, 1953 FILED

The City Manager filed two copies of the annual financial report of the City of Modesto for the fiscal year ended June 30, 1953, as required by subsection 3 of Section 800 of Article VIII of the City Charter. The Council indicated that they wished copies sent to them for their study. Mayor Marks congratulated the Director of Finance on behalf of the Council for the excellent report.

PRESENTATION OF FINANCIAL REPORT FOR MONTH OF DECEMBER, 1953

The City Manager filed a copy of the financial statement for the month of December, 1953.

DISCUSS METHOD ASSESSING PROPERTY ADJACENT TO COMMERCIAL DISTRICT

Councilman Mellis stated that with the continued zoning of property in the central part of the city for commercial uses that many of the city's "old timers" were finding it difficult to continue living in their homes located in and adjacent to the commercial area, since the taxes were so high. He cited an example of the method of assessing, giving the changes in the assessed valuation of both the land and improvements over a period of years. It is logical, he continued, to increase the assessed valuation of the land, as it is located close to the commercial area, but the increasing of the assessed valuation of the improvements, which are really decreasing in value, is questionable.

The City Manager was instructed by the Council to check the property cited by Mr. Mellis and compare it with related property, unrelated property, and property 1-2 miles outside the city.

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It was agreed by the Council that although the city had contracted with the county to do the assessing and tax collection that the city property owners should be protected and if inequities existed, that they should be cleared with the County Assessor by the Council.

ESTABLISH 60 FOOT RIGHT OF WAY ON SUTTER AVENUE

The City Manager reported that although an 80 foot right of way had been established for a small portion of Sutter Avenue, that after further checking ample justification for this requirement could not be found and he recommended that the right of way requirements be set at 60 feet.

Councilman R. Adams moved, seconded by Councilman Arata that the City Manager be instructed to proceed on the basis that only a 60 foot right of way would be required on Sutter Avenue.

COUNCIL TO MAKE OFFICIAL VISIT TO CITY FACILITIES

At the suggestion of Councilman Mellis, the City Manager was instructed to arrange the hour and date for an official visit by the Council of the city facilities.

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the Council meeting be adjourned until 10:00 A. M. Friday, January 29, 1954 (9:30 P. M.)

  
ATTEST: REX E. GAILFUS, CITY CLERK

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January 29, 1954

The Council meeting which had been adjourned from January 27, 1954, was reconvened by Mayor Marks at 10:00 A. M. this date.

The City Clerk called the roll of the Council and there were

Present: Councilmen: R. Adams, Annan, Arata, Mellis and Mayor Marks

Absent: Councilmen: M. Adams and Merrill

Others Present:

Members of the Board of Supervisors of Stanislaus County,

Ken Ables. Chairman, Milo Bradshaw, John Delphia, Clint Wilson and John Melugin

Members of the Board of Library Trustees

W. H. Murray Chairman, Rebecca C. Heckendorf, John E. Gorman, Charles S. Zimmerman

CORRECTION OF AMOUNT QUOTED BY MAYOR OF LOSS TO CITY IN TAXES IF PARKING LOTS PURCHASED AND REMOVED FROM TAX ROLL

Mayor Marks stated that at the joint meeting held by the Council, the Off-Street Parking Committee of the Chamber of Commerce, and the Parking Authority on January 28th, he had incorrectly stated that the city would lose approximately \$30,000 in taxes if the \$1,250,000 worth of real property for parking lots proposed by the committee was removed from the city's tax roll. He stated that he wished the record to show that the correct amount which the city would lose in taxes would be between \$4800 - \$5000. The error had come about through a misunderstanding of the information requested.

AUTHORIZE CITY ATTORNEY CONFER WITH BOND COUNSEL

Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that City Attorney Grimes be authorized to confer at city's expense with Orriek, Dahlquist, Herrington and Sutcliffe bond counsels in San Francisco, relative to the parking program.

DISCUSS LIBRARY OPERATIONS

Mayor Marks welcomed the members of the Board of Supervisors and the Board of Library Trustees and stated that the meeting had been called in a spirit of friendly cooperation so that a better understanding could be worked out with regard to the operation of the McHenry Public Library. He called on Carl Hamilton, Librarian, to review the events which had transpired to date.

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Mr. Hamilton stated that during the past two years data had been compiled on the joint operation of the library and a plan had been prepared for a different type of support than the existing system which had been discussed with the Board, the Council and the City Manager, but to date no decision had been reached. The meeting today, he stated, sets the time table for this consideration. "All I have offered is a suggestion that the major control of the library be placed in the county hands and the county be given certain powers as a matter of policy, to bill the cities and local governing agencies throughout the county for additional support as seems advisable."

He reviewed the history of the establishment of the library which started in 1912, when a gift of money for the building of the library had been given to the city by Ora McHenry. Upon completion of the building in 1912, the city had invited the county to occupy a portion of the building and since that time the county and city had been operating in the same building.

He stated that even with the recent annexation which increased the estimated population of Modesto to approximately 30,000, more than one-half of the services of the central library goes to the county residents. Of the 33 stops of the bookmobile which was purchased by the city (cost of operation is paid by the county), only four are within the city limits.

Mr. Hamilton outlined certain phases in the operation of the library where the work done by county personnel, such as at the circulation desk and advisory work, benefited the city. Services furnished the county by the city in the past have been

1. Quarters, utilities, and janitorial and other maintenance for the main headquarters for the county library.
2. The vehicle for the bookmobile operations.
3. Service of the McHenry Public Library for county residents, living outside the city (approximately 50%).
4. Cataloging juvenile literature.

The City Manager stated that this past relationship had been most helpful to the city and that in working together in this manner that "we have been able to give better library services to the whole area."

Mayor Marks stated that "the city has not in the past, does not now, and will not in the future ask for any county assistance for the provision of city services to

the citizens of the City of Modesto. The city furnishes many services to those outside the city, and requests county cooperation so that maximum services may be rendered to these people on the most economical basis."

The City Manager pointed out that technical point to be considered at this meeting was whether the city will withdraw from the county library tax district, since the City Attorney had advised the Council that it would be necessary to act on this before February 1, as provided by state law.

When asked by Supervisor Abel, "has the Council made up its mind," Mayor Marks replied, "No, the Council has not made up its mind."

Supervisor Abel stated that since other joint city-county operations were involved that he would suggest that before the meeting was adjourned that some arrangements be made to discuss these others so that the board could determine whether they would "go along" on the suggested plan of Mr. Hamilton's. However, he stated, the board does not wish to delay any action the city wished to take at this time due to the dead line of February 1st. There are a number of things, he continued, in which the city and county should participate, such as the Dennett Dam, library, jail, and the airport. He urged that there should be a "meeting of minds on these things" and immediate action taken to solve them.

At this time Mayor Marks read a statement outlining the policy of the Council in the city-county fiscal relationships:

1. The city is willing at any time to consider any and all of the city-county fiscal relationships on the basis of what is fair and equitable to all concerned.
2. Consideration of city-county fiscal relationships must accept the basic fact that the county is obligated to render basic county governmental services to people both outside and inside the cities from the county general fund.
3. The city accepts the responsibility for providing the additional services above the level of normal county services to people in the City of Modesto.
4. The city has not in the past, does not now, and will not in the future ask for any county assistance for the provision of city services to the citizens of the City of Modesto. The city furnishes many services to those outside the city, and requests county cooperation so that maximum services may be rendered to these people on the most economical basis.

5. The cities and the county should cooperate to furnish maximum services on an equitable basis. Where a joint operation is more economical it should be used.
6. The cities and the county should be willing to consider the equity of all the joint problems, but it should be recognized that it may not be possible to solve them all at once, and those which can be solved equitably and expeditiously should be cleared. This is on the premise that if we wait until they are all solved that none of them will be solved. In reaching a solution on any individual problem, it must be on the premise that a fair, equitable solution will be found to the others. There should be full public exploration and consideration of each problem before a decision is made.

Councilman R. Adams stated that the Council wished to be fair and equitable to everyone concerned in each problem. He expressed confidence that the city and county could get together on the solution of the joint operation of the library and he suggested that the plan presented by Mr. Hamilton should be considered.

Supervisor Delphia stated that the board felt the same way and that he had realized for a long time that the present financial set up was unfair to the city. The city residents, he stated, prior to the recent annexation were paying approximately \$3.00 per year per population for their library services as against 88¢ for county residents and since annexation it had only been reduced to \$1.60 for the city against 88¢ for the county. The board has always wanted to adjust this but to adjust it along with the other things such as the jail, etc. He expressed surprise that some arrangements had not been worked out prior to this time since the board had turned the matter over to the county administrator for action.

The City Manager stated that meetings had been held with the county staff but no successful arrangement had been concluded. He stated that the proposed long range program which had been prepared by Librarian Hamilton had merit and recommended that Mr. Hamilton be permitted to review the plan.

City Attorney Grimes pointed out that so far all the discussion had been on joint fiscal relationships and he suggested that Mr. Hamilton comment on the important aspects of the organization problem.

Mr. Hamilton stated that the present set up was most unsatisfactory and that "serving two masters was very difficult".

Councilman Mellis stated that "working under two heads would be irritating to all employees."

Mr. Hamilton read the "Statement of policy for Branch Operating Responsibilities for the Stanislaus County Free Library and for the several communities participating," a copy of which is on file in the office of the City Clerk.

Mr. Hamilton recommended that the library be a county library as soon as it could be worked out and that the Board of Supervisors have the responsibility of the entire library system in the county. He offered the following basis for distribution of library costs:

1. County Library is responsible for basic library service.
2. Community is responsible for quarters and maintenance (this is a policy which can be arranged for at slow stages in some communities)
3. County Library and community share costs of service beyond basic

Special Modesto-Stanislaus terms

County headquarters to be in main city building rent free.

City to lease bookmobile to County in turn for County Librarian's advisory service to the City.

All City employees over 10 years service to continue on City payroll until resignation or retirement. All other to become County employees.

City to stay on County Library tax roll. The library is like the school in that we try to give equal service to all, regardless of economic, social, or personal conditions of user; any reduction of the tax base makes it just that much harder to equalize the opportunities.

City may desire to build branch libraries in McHenry Village and the LaLoma areas; such branches would be handled exactly like other community branches, the County responsible for basic service and City and County sharing extended costs.

City and County need to continue development of the Library program such as a young adult service, an adult education (informal) program, increasing reading skills, etc.

The City Manager recommended that title to the bookmobile be transferred to the County.

Supervisor Delphia raised the question of whether in adopting a program for the solution of the County-Modesto joint operation the Supervisors would be "selling the little community down the river".

It was pointed out that the provision in the policy statement entitled "Variations County Aid The County Library may go beyond the limitations of policy in the case of depressed community at the direction of the Board of Supervisors." would take care of this problem and the suggestions were made that the wording in the case

of a depressed community" could be changed to read "in case of hardship", or "in case of equity" or "in the interest of equity".

Supervisor Melugin recommended that a blanket policy be established by the board for any unincorporated or incorporated area so that discrimination or favoritism would not result and "hard feelings would be eliminated."

Mayor Marks requested and received approval of the Council members on the basic policy for the joint operation of the library as outlined by Mr. Hamilton. He stated that the administrative details could be worked out later by all interested parties.

Attorney Grimes pointed out a legal problem was involved in the program recommended by Mr. Hamilton. Section 1110 of the City Charter provides that "The Board of Library Trustees shall have charge of the administration of the McHenry Public Library, and shall have the power and duty to (a) make and enforce such bylaws, rules and regulations as it may deem necessary for the administration and protection of the City Library."

Under the proposed program, he stated, the Board would have no authority to administer or advise with respect to the library. However, he continued, under subsection d of Section 1110, the board is given power to "contract with school, county, or other government agencies to render or receive library services or facilities, subject to the approval of the Council." He suggested that the board could contract with the county, but a charter amendment should be considered if this program is adopted. The Board of Library Trustees could act in an advisory capacity, he suggested.

Mayor Marks called on Rose Vainstein, Field Representative of the California State Library, who expressed pleasure with the basic agreement expressed by both the county and city, and stated she believed that suitable working arrangements, which could be operated over a long period of years, could be worked out by the city, county and board.

Bill Murray, Chairman of the Board of Library Trustees, introduced the members of the board and stated that the feeling was general with the board that there was a degree of inequity under the present fiscal relationship but that they were confident the two groups could work out a satisfactory solution. He recommended that similar meetings be scheduled by the city and county to work out the other joint operations and that one problem at a time be considered.

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Supervisor Abel suggested that the Board be permitted to retire to its chambers in the courthouse and to come back later in the day with some kind of satisfactory solution. He recommended that the next problem to be considered should be the jail.

Supervisor Bradshaw expressed dissatisfaction with the inference in the article which had appeared in the Modesto Bee that the City of Modesto wished the library "split up". "The library is alright and you are getting my people down on the library." He pointed out that the city really owed money to the county when the overall operations were considered.

Mayor Marks pointed out that the city wished to solve all of the problems and to pay its fair share of all the joint operations and there was no intention of "threat" involved.

Mayor Marks stated that Councilman M. Adams, who was unable to be present at this meeting, had asked him to make a statement in his behalf regarding the joint operation of the library. Councilman M. Adams believed that "there were inequities in other joint city-county operations, but that we have the facts on the library so let's make our decision on the facts. Let's get the facts on the other operations and solve them. In the final analysis I do not want to pull out of the library system without getting the facts before the Board of Supervisors. If we owe the county money on the jail let's get the facts and let's pay the county."

The City Attorney stated that it would<sup>not</sup> be feasible for this meeting to reconvene later in the afternoon, as suggested by Supervisor Abel, due to a prior commitment for the chambers for a meeting of the Billboard-Sign ordinance committee.

The City Manager reviewed the communications starting from September, 1953, which had been sent to the county, relating to the library problem. He pointed out that due to legal technicalities, it had been necessary to call this meeting, but that at no time was the word "threat" used or inferred by the Council. He also pointed out that the city was willing and always had been willing to discuss the jail situation with the county.

Mayor Marks appointed Councilmen Arata and R. Adams as a temporary committee to confer with the county on the library problem.

Members of the Board of Library Trustees, and the Board of Supervisors left at this time.

Librarian Hamilton introduced Coit Coolidge, City of Richmond Librarian to the Council.

A discussion was held by the Council on the question of whether the meeting should be adjourned until a later date to further consider the matter of giving the Board of Supervisors notice that the city no longer desired to be a part of the Stanislaus County Free Library system or whether the matter should be dropped entirely since the Board had indicated its willingness to cooperate with the city in solving the existing financial inequities in the library operation. It was agreed that in view of the cooperative attitude expressed by the Board of Supervisors that it would be in order to close the hearing at this time. Councilman Mellis introduced

**RESOLUTION NO. 54-38**

seconded by Councilman Arata, terminating the hearing and expressing the intention of the city to remain in the Stanislaus County Free Library system, for at least the 1954-55 fiscal year, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: M. Adams and Merrill

**ADOPT POLICY WITH RESPECT TO THE CITY-COUNCIL FISCAL RELATIONSHIP**

Councilman Arata introduced

**RESOLUTION NO. 54-37**

seconded by Councilman Annan, adopting the principles outlined by the Mayor as the Council's official policies with respect to city-county fiscal relationships, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: M. Adams and Merrill

**ADJOURNMENT**

Councilman Annan moved, seconded by Councilman R. Adams that this Council meeting now in session adjourn, and it was unanimously carried. The meeting adjourned at 11:50 A. M.

ATTEST: REX E. GAILFUS, CITY CLERK



1-29-54

February 3, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M. as provided by Ordinance No. 1084-N.S.

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

Invocation was given by Rev. Dale Sherwood of the First Christian Church.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Mayor Marks

Absent: Councilmen: Annan and Merrill

LETTER FROM FRANK ANDREWS RE: AIR RAID TESTS

A letter from Frank Andrews regarding recent air raid tests was ordered referred to Assistant Director of Civil Defense Mark J. Landquist.

OFFER OF CODDING HOMES TO BUILD CITY BUILDING ON LEASE-PURCHASE AGREEMENT

Mayor Marks introduced Hugh Coddling, of Coddling Homes Inc., who have recently completed the construction of McHenry Village on McHenry Avenue, and stated that he had asked Mr. Coddling to come before the Council to discuss the matter of public buildings and their cost.

Mr. Coddling stated that his company would be willing to work out an arrangement, if the city was interested, for the construction of a city building on a lease-purchase arrangement. His company, he stated had available acreage at the McHenry Village which they would donate for this purpose. A survey could be made by his company, or they would accept any survey made by the city, as to space requirements; draw plans; and make a proposal on a basis of a nominal monthly rental fee over a period of any number of years agreed on by the city to amortize the cost of the property. He pointed out that many private companies were acquiring buildings in this manner but that he did not know of any municipalities which had taken advantage of this system. He offered also to proceed on same basis on any site offered by the city.

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Paul Golis, Attorney with Coddling Homes, pointed out that cities and counties had been authorized by the state legislature to use this method of financing public buildings and that with the experience of his company in financing, that it would not be difficult to work out a lease-purchase arrangement.

Mr. Coddling stated that his company would not anticipate any profit but that it would be done in the public interest. He pointed out the only advantage of such an arrangement to his company would be an increase in its volume of building, which would give them a better buying power.

In the general discussion it was brought out, (1) that the city's credit would be tied up for the period of time it would take to amortize the loan. (2) That it would be more advantageous to the city, due to the taxes, to purchase the site outright. (3) That it would be a decision for the Council to make whether an architect would be hired.

The council expressed appreciation of the offer of Mr. Coddling to donate a site in the McHenry Village for a City Hall, but doubt was expressed that was a suitable site. Interest was expressed by the Council in the lease-purchase plan outlined by Mr. Coddling and it was agreed that the Council Committee should consider this proposal jointly with the possibility of remodeling the old John Muir School building for a City Hall.

COMMITTEE REPORT ON INSPECTION OF JOHN MUIR BUILDING MADE BY ARCHITECT  
R. G. DELAPPE

Councilman Mellis reported that, as requested by the Council, the Council committee together with Architect R. G. DeLappe, has inspected the old John Muir School building recently and that Mr. DeLappe would not make any recommendation until a further check had been made by an engineer as to the structural soundness of the building. Mr. DeLappe had suggested that the engineer, who had inspected the school buildings for the city schools be hired and stated that he would communicate further with the Council in this regard.

It was agreed by the Council that; (1) The building should be checked for structural soundness whether it was to be used as a city hall or a community building. (2) The committee should consider the proposition of remodeling the school building along with the proposal of Mr. Coddington's to construct a new building on the lease-purchase arrangement and other possibilities, and "weigh them all together".

REQUEST FOR VARIANCE FROM ORDINANCE NO. 1086-N.S. ON STREET OPENINGS  
TIDEWATER ASSOCIATED OIL COMPANY

Mayor Marks declared the hearing open for the consideration of a request filed by Tidewater Associated Oil Company for a variance from the provisions of section 4 of Ordinance No. 1086-N.S., as related to the street openings, for a service station on the northwest corner of Tully and Roseburg Avenues.

The City Manager reported that he recommended that the company be permitted to put in 36 foot curb cuts instead of 30 foot, as required by the ordinance. Mayor Marks declared the hearing closed.

Councilman Arata introduced

RESOLUTION NO. 54-43

seconded by Councilman M. Adams, authorizing the increase in size of the three curb cuts required for this service station being constructed by said applicant, from 30 feet to 36 feet, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

A LETTER FROM CITY PLANNING COMMISSION RECOMMENDING THE COUNCIL ADOPT  
RESOLUTION AS REQUESTED BY SHORELINE PLANNING ASSOCIATION

A letter, together with a copy of a suggested resolution, from the Planning Commission recommending that the Council adopt this resolution which the Shoreline Planning Association of California had requested relating to allocation of funds for recreation, was considered. Councilman Mellis introduced

## RESOLUTION NO. 54-44

seconded by Councilman R. Adams, requesting that Assemblyman Stanley T. Tomlinson, Chairman of the Committee on Impounded Funds from Tide and Submerged Lands, and his committee members do find that the best interest of the state and the great majority of the people of the state lie in keeping the present provisions of Section 6816 of the Public Resources Code intact to the end that "the remaining balance", as stated in subsection (c) of Section 6816, be distributed as follows: 30% to the General Fund, 23 1/3% to the State Beach Fund and 46 2/3% to the State Park Fund, and that copies of the resolution be sent to Assemblymen Brown and Tomlinson, Senator Donnelly, Governor Knight and all interested parties, including the State Department of Beaches and Parks, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

LETTER FROM PLANNING COMMISSION RE: REQUEST CERTIFICATE OF SERVICE BE ISSUED TO FORMER COMMISSIONER RICHARD VANDERWALL

A letter from the City Planning Commission, enclosing a copy of its Resolution No. 118, commending Richard Vanderwall for services as a commissioner, was read. The Commission's request that the Council issue a Certificate of Service to Richard Vanderwall "as a fitting award for his services" was considered, and Councilman Arata moved, seconded by Councilman R. Adams, and it was unanimously carried, that the issuance of a Certificate of Service to Richard Vanderwall, be authorized.

ACCEPT BID OF OSTERBERG & CARROLL FOR DRILLING OF TWO WELLS

The City Manager reported that the Director of Public Works had recommended that the bid of Osterberg & Carroll for the drilling of two wells (#1 and #17), which had been opened at 10:00 A.M. Monday, February 1, 1954, be accepted. Councilman M. Adams introduced

RESOLUTION NO. 54-40

2-3-54

seconded by Councilman R. Adams, accepting the bid of Osterberg & Carroll for the drilling of wells at Station #1 and Station #17, be accepted and that the execution of contract for the completion of the work be authorized, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

INTRODUCTION OF ORDINANCE NO. 1107-N.S. (AMENDMENT PLUMBING ORDINANCE)

The City Attorney presented for the consideration of the Council an ordinance which would amend Ordinance No. 1100-N.S. (Plumbing Ordinance) providing regulations for "Vent Termination". Councilman R. Adams moved the introduction and passage to print of

ORDINANCE NO. 1107-N.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1100-N.S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE PROVIDING FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, AND THE EXAMINATION, REGISTRATION, LICENSING OF PERSONS ENGAGED IN THE BUSINESS OF PLUMBING, OR LABORING AT THE TRADE OF PLUMBING: REQUIRING A PERMIT FOR THE INSTALLATION OR ALTERATION OF PLUMBING AND DRAINAGE SYSTEMS: CREATING AN ADMINISTRATIVE OFFICE AND A BOARD OF PLUMBER EXAMINERS, AND PRESCRIBING THEIR DUTIES: DEFINING CERTAIN TERMS: ESTABLISHING MINIMUM REGULATIONS FOR THE INSTALLATION, ALTERATION OR REPAIR OF PLUMBING AND DRAINAGE SYSTEMS AND THE INSPECTION THEREOF: PROVIDING PENALTIES FOR ITS VIOLATION AND REPEALING CONFLICTING ORDINANCES IN THE CITY OF MODESTO', BY ADDING SECTION 13.1 THERETO ENTITLED 'VENT TERMINATION'", which motion being duly seconded by Councilman M. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

REPORT ON EXPIRATION OF TIDEWATER SOUTHERN FRANCHISE

The City Attorney informed the Council that the franchise granted by the city to the Tidewater Southern Railway Company in 1911 for 43 years, to operate in the city, would expire on February 7, 1954. An additional franchise granted this company in 1920, he stated, for a small portion of the company's present route through the city had previously expired in February 1947 and since that time the company has been operating over that portion of its route without a franchise although a resolution had been adopted by the Council in April 1947, notifying the company to "cease and desist" its operation over that portion of the route. However, he continued, there is nothing in the records that indicates any official action being taken by the city to enforce its ruling. The City Attorney stated that from his investigation it appeared that the matter was unofficially put over until the other franchise expired. After February 7th, 1954, the Tidewater Southern Railway Company will not have a franchise to operate in the City of Modesto, but to date, he stated, he had not received any communication from the company relative to the expiration of the franchise, nor has any other city official to his knowledge. The city charter requires that any public utility company using the city streets should obtain a franchise.

In April, 1947, Vernon Gant, Attorney, representing some of the property owners on Ninth Street, had petitioned the Council that the relocation of the railroad from Ninth Street be considered but this request was deferred until the expiration of the other franchise. At this time the City Attorney read a letter from Mr. Grant, dated January 29, 1954, again requesting the consideration of the Council in denying renewal of the franchise permitting the railroad company to operate on Ninth Street.

The City Attorney recommended that the Council instruct the staff to make an investigation and report on the situation and bring back to the Council its findings in the matter. However, he continued, there

will be an important matter beyond the scope of the staff, and that is the matter of relocation of the railroad which is a policy matter which must be determined by the legislative body of the city, as well as the determination whether compensation will be required from the company for the use of the city streets. He cited the procedure for the city to follow, should the company be averse to changing their route, which would require an application to the Interstate Commerce Commission for a hearing and determination which would probably require several years as well as expensive legal fees.

Frank Paradis, property owner on Ninth Street, stated, "When the company came into the city they had to have a franchise and it should be necessary for them to get a renewal." He felt that the company had had ample time to find a new route and that he would request, in the near future, that the Council deny a renewal of the franchise. He contended that if the Council denied the renewal then the company would be operating without a permit and it would be on the defense and if it was proven that they had operated for a considerable length of time without permission that there would be some damages involved. "If the city sits idly by and permits them to continue," he stated, "silence would indicate acquiescence, and that is the reason why we feel that you should not delay taking action upon the expiration of the franchise, as it will be several years before it can be completed and you have not lost any time and relinquished any rights which you might have."

The City Manager suggested that in the interest of the community that the problems of the Ninth Street property owners be considered jointly with the city and the railroad so that a satisfactory solution could be reached, and he pointed out that in the rerouting of 99 Highway that perhaps the rerouting of the railroad could be worked out also.

Jack Kenady, representing the Tidewater Southern Railway Company, stated, "We know we have a problem and it is a community problem. For months we have been considering this matter, getting facts, etc." He

stated that unfortunately the highway rerouting plan had been delayed which might have afforded some relief. Another factor delaying consideration was the illness of the company's president, Rex Kearney. He assured the Council that the company would do "what is best for the community", and that it would not shirk the "legislation that you men have accomplished here." Plans are still under study, he stated. He reviewed the history of the relocation of a portion of the route from Virginia Avenue onto the M. I. D. canal because of protests of residents on this street. He stated that his company had conducted surveys in 1945-47 on the possible relocation of the route which had not been carried through.

The City Attorney pointed out that the Council "is faced with this problem, and it is incumbent upon them to make a basic decision as to whether or not it is interested in renewing the franchise which might be done by (1) giving the company a new franchise on the present route and get some money, and provide strict regulatory terms under which they would operate, or (2) to require them to relocate the route with or without compensation. If the Council makes the later decision, he stated, it should be willing to commit itself to the necessary cost that will be involved in implementing that decision, should the railroad not be willing or the situation develops that it is impossible to work out an amicable solution. It does not do any good to pass a resolution insisting that the Tidewater Southern Railway Company "cease and desist" unless the city wants to take the necessary legal action before the Public Utilities Commission and the Interstate Commerce Commission and follow up the appeals through the courts." He pointed out that technically it would not be necessary for the Council to take any action at this time, but that it would be appropriate to serve notice on the company that they were using the city streets without a franchise and that the city desires to discuss the matter with their representatives.

The City Manager suggested that the City Attorney be authorized to advise the company that the franchise had expired on February 7th, and

that the city would not renew or consider its renewal until it had had an opportunity to consider with the railroad company the problem and the means by which it could be rerouted on a basis which would work out to the benefit of the city, community and railroad.

Mr. Paradis pointed out he wished to qualify his remarks by stating that he personally was opposed to the renewal of the franchise of the present route on Ninth Street, and that all the property owners on this street would formally file a protest through their attorney at the proper time.

The City Attorney recommended that the facts be obtained and considered by the Council before any further action is taken on the renewal. Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the company be advised that the franchise expired on February 7, 1954, and that until the city has had an opportunity to consider with the railroad company the problem and the means by which it could be rerouted on a basis which would work out to the benefit of the city, community and railroad, it would not consider the renewal of the franchise.

Mr. Kenady stated that his company would hold in abeyance any application for renewal of the franchise until such a time the city, property owners and railroad could get together and discuss the mutual problems. He pointed out that although it would be impossible to discuss these problems with the president for sometime, due to his illness, that the company's engineer, vice-president and local representative would be available, and willing to cooperate at any time.

At the suggestion of the City Manager, Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that Attorney Vernon Gant, representing the Ninth Street property owners, and the Tidewater Southern Railway Company be notified in advance of any contemplated consideration or action in this matter by the City Council.

COPIES OF PETITION FILED BY GORDON WIGHT ON BEHALF OF THE NEW AND USED CAR DEALERS

Copies of a petition which will be filed soon by the New and Used Car Dealers Association were filed by Gordon Wight with the City Clerk for distribution to Council members for their study, relating to the operation of used car lots in the city.

The City Manager was directed to accompany these petitions with a factual analysis of how the proposed regulation was working out in other communities.

REQUEST FOR VARIANCE FROM ORDINANCE NO. 1086-N.S. ON STREET OPENINGS UNION OIL COMPANY

Mayor Marks declared the hearing open for the consideration of the request filed by the Union Oil Company for a variance from the provisions of section 4 of Ordinance No. 1086-N.S., as related to street openings for a service station on Judith Lane and McHenry Avenues.

It was brought out in the discussion that the state was unwilling to permit the construction of the station to the proposed set back line (80 feet) for McHenry Avenue since this would leave exposed unprotected public utility poles. It was agreed that rather than delay the construction until this matter could be further checked out with the state that the requested variance on curb cuts be granted, subject to clearing the matter of street width on McHenry. Mayor Marks declared the hearing closed.

Councilman R. Adams introduced

RESOLUTION NO. 54-45

seconded by Councilman M. Adams, granting permit to the said applicant for two curb cuts on Judith Lane, the easterly one to be 36 feet in width and the westerly one to be 30 feet in width, and two curb cuts on McHenry Avenue, the southerly one not to exceed 41 feet and the northerly one not to exceed 46 feet, subject to clearing with the state to determine if the construction of the station could conform with the proposed 80 foot set back on McHenry Avenue, and that if it is not possible that the Union Oil

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Company will file a letter with the city agreeing that when the 80 foot width is needed the necessary right of way will be provided and the necessary realignment of their facilities will be completed at its own expense, including curb and driveway approaches, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

J. Hal Roger, Property Representative of the Union Oil Company, stated that he would check with his company's Territory Office regarding the dedication of the necessary right of way for the widening of McHenry Avenue.

DISCUSS NEED FOR ORDINANCE ESTABLISHING SET BACK LINE-MCHENRY AVENUE

A discussion was held on the advisability of adoption of an ordinance extending the 80 foot set back line on McHenry Avenue from Griswold Avenue to the new city limits. Councilman Mellis moved, seconded by Councilman R. Adams, instructing the City Manager to bring a report to the Council on this matter, which was unanimously carried.

APPROPRIATION TRANSFER OF \$1200 FROM GENERAL RESERVE TO PUBLIC WORKS DEPT.

Upon the recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-41

seconded by Councilman Mellis, approving the appropriation transfer of \$1200.00 from the general reserve to the Public Works Department (Sewer Division) for the construction of dry wells as a method of providing storm drainage, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

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APPROPRIATION TRANSFER OF \$9000 FROM GENERAL RESERVE TO PUBLIC WORKS  
DEPARTMENT (PARKS DIVISION)

Upon the recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-42

seconded by Councilman R. Adams, approving appropriation transfer of \$9,000 from the General Reserve to the Department of Public Works, Park Division, for capital outlay - acquisition of Ashford Park, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

LETTER FROM NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS RE: RELATING  
TO FEDERAL TAXATION OF MUNICIPAL BONDS

A release from the National Institute of Municipal Law Officers relating to federal taxation of municipal bonds was discussed and it was agreed that the City Manager should obtain additional information from the League and report to the Council at a later date.

REPORT FROM LLOYD T. LOWREY, SUPERINTENDENT OF PARKS RE: TREE PLANTING  
METHODS

A report from Lloyd T. Lowrey, Superintendent of Parks, relating to the planting of city street trees with the new post hole digger, was summarized by the City Manager. This report showed that tree planting crews had averaged in excess of 50 trees planted per day as compared to about 20 trees employing hand digging methods, and that in one instance 52 holes had been dug over a period of two hours. Copies of this report are to be distributed to the Council members.

J. W. SINCLEAR REQUEST ASSISTANCE IMPROVING THOUSAND OAKS PARK

J. W. Sinclear, 1313 Highland Drive, chairman of a committee of property owners for the improvement of the Thousand Oaks Park, appeared before the Council and requested, (1) that the city permit Lloyd Lowrey, Superintendent of Parks to do some preliminary planting in the park, and

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(2) that the committee be allowed to review the plans for the development of the park so that any possible neighborhood opposition could be minimized.

Mr. Sinclair reviewed the events which had transpired in the effort of the committee to get action from the county for the development of the park, which had been dedicated in the subdivision, and which had recently been annexed to the city in the LaLoma-Yosemite Addition election. The chief opposition, he stated, was from some adjacent property owners who did not wish to see the park developed along the lines of the Legion Park, which would create a parking problem as well as a "surveillance" problem. The possibility of the city's securing from the county, the amount which had been budgeted for development of the park was mentioned by Mr. Sinclair.

It was suggested by Mayor Marks that the Committee consider placing some of the opponents on the committee. The restriction of the original dedication of the land for a park area and the question of the transfer of ownership to the city was discussed. Councilman M. Adams moved, seconded by Councilman Mellis, which was unanimously carried, that the city was willing to cooperate with the county and the committee in plans for the further development of the Thousand Oaks Park.

COPIES OF PROPOSED ORDINANCE REGULATING TELEVISION ANTENNA INSTALLATION  
DISTRIBUTED TO COUNCIL

The City Attorney distributed copies of a proposed ordinance regulating television antenna installations to the Council members for their study.

RESOLUTION REGULATING PARKING ON G STREET BETWEEN TENTH STREET AND ALLEY  
IMMEDIATELY WEST

The City Attorney presented for the consideration of the Council a resolution which he had prepared at the request of the Police Chief providing for the prohibition of parking, for a 30 day period during the remodeling of the Greyhound Bus Depot, on the west side of G Street, between the alley and Tenth Street. Councilman Mellis introduced

RESOLUTION NO. 54-39

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seconded by Councilman R. Adams, providing that effective February 8, and continuing for a period of 30 days, parking of motor vehicles be prohibited except those vehicles operated by a public carrier of passengers for hire, certificated by the California Public Utilities Commission in the following location:

Beginning at the property line on the west side of Tenth Street and continuing west on the north side of G Street for a distance of 150 feet

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Annan and Merrill

MAYOR MARKS OUTLINES PROCEDURE OF FORWARD MODESTO COMMITTEE IN HANDLING RECOMMENDATION

Mayor Marks outlined the procedure of the Forward Modesto Committee in handling recommendations which had been filed for the improvement of the community.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously carried, that the meeting in session adjourn.

The meeting was adjourned at 6:15 P.M.

  
ATTEST: REX E. GAILFUS, CITY CLERK

February 10, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P. M., as provided by Ordinance No. 1084-N. S.

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

Invocation was given by Rabbi Solomon A. Shore of the First Hebrew Congregation of Modesto Synagogue.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Absent: Councilmen: Merrill

APPROVAL OF MINUTES OF COUNCIL MEETINGS

Council members having received copies of the minutes of the meetings of January 20 and 27, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

LETTER FROM HUGH B. CODDING OF McHENRY VILLAGE INC. RELATIVE TO FINANCING PROPOSED CITY BUILDINGS

A letter from Hugh B. Coddington McHenry Village, Inc., relative to financing a city hall was referred to the temporary Council Committee studying the matter.

LETTER FROM CHAMBER OF COMMERCE "MODESTO STATE HOSPITAL COMMITTEE"

A letter from George Ground, Jr., Chairman of the Chamber of Commerce Modesto State Hospital Committee, expressing appreciation to the Council for its part in making the recent Hospital Week a success, was read and ordered filed.

DISCUSS JOINING WITH CITY OF TURLOCK IN AERIAL MAPPING PROJECT

The City Manager reported that the City of Turlock had recently contacted him with regard to the possibility of the City of Modesto joining with the other cities in the county in an aerial mapping project. The reason was advanced <sup>that</sup> by joining with other cities a better price for the work could be obtained.

The need for this type of project and the approximate cost to the city was discussed by the Council and it was agreed that as a matter

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of courtesy to the City of Turlock that a further study should be made and Councilman Mellis introduced a motion, seconded by Councilman M. Adams, which was unanimously carried, that the City Manager be authorized to make a further study of the proposal to determine the need and the cost, and to report his findings to the Council.

REQUEST GRANTED TO HOLD RELIGIOUS CAMPAIGN IN PARKING AREA OF THE MUNICIPAL BASEBALL PARK

A request was filed by William M. Todd, pastor of the United Brethren in Christ Church, on behalf of 40 Modesto ministers, for permission to erect a tent in the parking area outside the municipal baseball park for a religious campaign to be conducted by Dr. Jack Schuler during the period of March 15 through April 11.

The campaign, he stated, has been endorsed by the Modesto Ministerial Association. The Board of Directors of the Modesto Community Athletic Association, at a recent meeting, approved the use of the parking area.

Mr. Todd stated that the location had been selected due to the fact that it was a remote area and the loud speaker, which would be used in the tent only, would not disturb residents and also that adequate parking facilities were available.

Councilman Annan introduced

RESOLUTION NO. 54-46

seconded by Councilman Arata, granting permit to William M. Todd on behalf of the ministers of Modesto to erect a tent at the above described location to be used for a religious campaign to be conducted during March 15 through April 11, providing that the tent be erected under the supervision of the City Engineer and meet the requirements of the building code and further provided that the city will be held harmless from and against any and all costs, damages and liability arising out of the erection and maintenance of the tent and use of the city premises, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE THE CALLING FOR BIDS FOR  
CONSTRUCTION OF SANITARY SEWER IN BLOCKS 6196 and 6198

The City Manager presented plans and specifications for the consideration of the Council for the furnishing of all materials, labor and services for the construction of sanitary sewer in Block 6196 and 6198. He stated that all the property owners concerned had paid the necessary charges. Councilman M. Adams introduced

RESOLUTION NO. 54-47

seconded by Councilman Arata, approving the plans and specifications and authorizing the calling for bids for the construction of sanitary sewer at above described location; said bids to be opened in the Council Chambers on February 23, 1954, at 10:00 A. M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

FINAL ADOPTION ORDINANCE NO. 1107-N. S. AMENDING PLUMBING ORDINANCE

Ordinance No. 1107-N. S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1100-N. S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE PROVIDING FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, AND THE EXAMINATION, REGISTRATION, LICENSING OF PERSONS ENGAGED IN THE BUSINESS OF PLUMBING, OR LABORING AT THE TRADE OF PLUMBING: REQUIRING A PERMIT FOR THE INSTALLATION OR ALTERATION OF PLUMBING AND DRAINAGE SYSTEMS: CREATING AN ADMINISTRATIVE OFFICE AND A BOARD OF PLUMBER EXAMINERS, AND PRESCRIBING THEIR DUTIES: DEFINING CERTAIN TERMS: ESTABLISHING MINIMUM REGULATIONS FOR THE INSTALLATION, ALTERATION OR REPAIR OF PLUMBING AND DRAINAGE SYSTEMS AND THE INSPECTION THEREOF: PROVIDING PENALTIES FOR ITS VIOLATION AND REPEALING CONFLICTING ORDINANCES IN THE CITY OF MODESTO', BY ADDING SECTION 13.1

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THERE TO ENTITLED 'VENT TERMINATION'", having been heretofore introduced and ordered printed and published at the regular meeting of February 3, 1954, Councilman M. Adams, moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

COUNCIL COMMITTEE ON PLUMBING ORDINANCE SUGGEST FURTHER CHANGES IN ORDINANCE

Councilmen M. Adams and R. Adams, Council committee members on the Plumbing Ordinance, reported that through oversight the hookup fee in Ordinance No. 1100-N. S. had been increased from \$2.50 to \$5.00 and that it was not the intention of the committee to increase the fee. Several other items in the ordinance should be reconsidered and a few things which had been omitted should be included, Councilman M. Adams, stated, and since all of these things require additional study, a further report will be filed with the Council on the committee's recommendation.

Mayor Marks suggested that the committee submit a written report to the Council members on its findings, prior to the time the Council would officially consider the proposed amendment, to enable them to study the proposals.

CONSIDERATION OF THE PROPOSED ORDINANCE REGULATING TELEVISION ANTENNA INSTALLATION HELD OVER

City Attorney Grimes reported that since the consideration of the proposed ordinance regulating television antenna installation by the committee and the distribution of the copies to the Council, that a number of interested parties had contacted him in regard to certain provisions in the ordinance which they believed needed further study. He suggested that the consideration of the proposed ordinance be deferred until the committee, augmented by representatives from television dealers and technicians, had had an opportunity to make a further study.

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Mayor Marks appointed Councilman Annan and M. Adams as a temporary committee to sit in on the meetings. At the suggestion of the City Attorney all interested parties in the audience were requested to leave their name and address with the City Clerk so that they could be notified of the time and place of the meetings.

REQUEST FOR VARIANCE FROM PROVISIONS OF ORDINANCE NO. 1086-N. S. AS RELATED TO STREET OPENINGS-GENERAL PETROLEUM CORPORATION

Mayor Marks declared the hearing open for the consideration of the request of the General Petroleum Corporation for variance from the provisions of Ordinance No. 1086-N. S. as related to street openings, for its service station at Ninth and I Streets, which is being remodeled. The proposed facilities called for two 40-foot driveways on Ninth Street instead of the present obsolete facilities which is entirely open to the motoring public. The granting of the variance, the company stated, would necessitate the installation of 51 feet of concrete curb which would provide parking space for three cars. With the removal of 22 feet of sidewalk (parking for one car), the city would still gain parking space. In addition, the proposed service station improvements would provide parking on the service station lot for a number of cars.

Whether the Council could adopt a policy on the granting of variances for street openings for service stations was discussed and it was agreed that each one should be considered separately in relationship to each particular area. Mayor Marks declared the hearing closed.

Councilman Annan introduced

RESOLUTION NO. 54-48

seconded by Councilman Arata, granting the request of the General Petroleum Corporation for a variance from the provisions of Ordinance No. 1086-N. S. as related to street openings and that they be permitted two 40 foot curb cuts on Ninth Street at a point to be approved by the Director of Public Works, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REPORT BY CITY MANAGER ON POSSIBLE CHANGES IN ORDINANCE NO. 1086-N. S. AS RELATED TO CURB CUTS

The City Manager stated that as directed by the Council consideration had been given by the staff to the possibility of amending Ordinance No. 1086-N. S. as related to street openings to permit variances administratively and other changes. The conclusion reached, he stated, was that each request for variance was different and as there were only a few requests to be considered that the present provision should be retained so that each case could be determined on its own merits after a check has been made by the staff. It was agreed by the Council that no further consideration should be given to this matter.

AMEND RESOLUTION NO. 54-45 GRANTING VARIANCE TO UNION OIL COMPANY ON ITS STATION AT JUDITH LANE AND McHENRY AVENUE

The City Manager reported that due to arrangements made for financing its station on Judith Lane and McHenry Avenue, that it would be impossible for the Union Oil Company to comply with the conditions set forth in Resolution No. 54-45, adopted by the Council on February 3, granting variance on curbs cuts providing the company agreed to file a letter with the city agreeing to dedicate the necessary right of way when McHenry Avenue is widened to 80 feet.

J. Hal Roger, Property Representative of the company stated that his company had rearranged its plans to conform with the 80 foot width proposed for McHenry Avenue and would file a letter agreeing to relocate the curb and driveways at its own expense when the street is widened, but since the station is financed through an insurance underwriter that it would be difficult to agree to dedicate the right of way. Councilman R. Adams introduced

RESOLUTION NO. 54-49

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seconded by Councilman Mellis amending Resolution No. 54-45 by deleting the provision that the Union Oil Company "agree that when the 80 foot width is needed (on McHenry Avenue) that the necessary right of way will be provided", which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

#### DISCUSSION ON PARKING PROGRAM

Mayor Marks read a letter received from the Modesto Chamber of Commerce Off-Street Parking Committee, signed by W. E. Bacon, Vice-Chairman, a copy of which is on file in the office of the City Clerk, relating to the off-street parking program.

The Committee urged the Council to

"Through its Off-Street Parking Authority to immediately consult two or more bond handling agencies which have had actual experience in the selling and handling of off-street parking revenue bonds; that after such consultation and advise, the City Council formulate a tentative policy as to financing and administering an off-street parking program. We also urge that after such consultation, and after a tentative, financial and administrative policy is adopted, that a bond handling agency and a competent and recognized organization which can qualify as a traffic expert, be employed, and that these two organizations be instructed to immediately make a traffic survey and fiscal analysis which will give the property owners, the citizens of Modesto, the Parking Authority and City Council, exact information as to the amount of off-street parking needed and the best method of financing same."

Mayor Marks commented that "this puts us back to where we were one year ago when we had a bond expert at a joint meeting with the committee, to answer some of these questions and also before we hired Mr. Gordon Whitnall to tell us what we needed."

Mr. Bacon stated that the committee wanted the Council to make arrangements for a bond counsel to be present at an informal joint meeting with the committee, authority and the council, to answer certain questions, relating to procedure and method, etc. He recommended that representatives from two houses be considered. He stated that he was speaking for a number of downtown property owners who wanted to know, before they supported

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a bond issue or assessment district program, the extent of participation proposed, cost, etc.

City Attorney Grimes, when requested by Mayor Marks reported that in his recent conference with Mr. Herrington of Orrick, Dahlquist, Sutcliffe, & Herrington, Bond Counsels of San Francisco, that Mr. Herrington had expressed reluctance in coming to Modesto for such a type of meeting suggested by Mr. Bacon and stated that he would prefer to work through the City Attorney on the various legal aspects of the program. Mr. Herrington pointed out that it would be necessary to know many phases of the proposed program before any answers could be given, such as the amount of the bond issue, meter revenue available, and private participation percentage, etc.

Mayor Marks pointed out that the first things to be considered by the Council were, 1) Do we need a program? 2) How much participation is there to be, if any? 3) How are we going to do it?

At this time Mr. Bacon questioned, ---"Does the Council feel that the city actually needs off-street parking in the downtown area?", to which Mayor Marks replied---"I cannot answer for the Council." and Mr. Bacon asked that the Mayor poll the Council. Until the Council has made this decision Mr. Bacon continued, "everybody is wasting their time."

"We have not been wasting our time," Mayor Marks contended, "we know the problem, we have been working for two years on this program." Bacon stated that "We seem to be going around in circles and the question is whether we are going to go ahead on a sound financial basis and try to get rid of the off-street parking problem in the downtown area or do it piece meal as we have done it in the past."

Councilman Mellis pointed out that "we have no legal right to bond the city for \$1,000,000 for a period of 30 years, as the downtown business area is constantly shifting." "Five years from now," Mr. Mellis contended, "the business area will not be the same. The only way I can go

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for an off-street parking program is for a short term, 5 years, and to be financed with 50% of the on-street parking meter revenue and all of the off-street parking meter revenue."

Attorney Vernon Gant stated that he represented the following downtown property owners; Frances Fithian, W. J. Silva Co., C. J. Beaty, Clarkson B. Bradford, Sr., C. C. Woods, Pearl Woods, Mrs. Mary Christ, Mrs. Earl A. Holtham, Mrs. C. R. Tillson, Marian Bradford, Adelle D. Tillson, Carl W. Shannon, Edith Shannon, J. W. Husband, R. D. Husband, Arthur L. Barton, and Francis M. Christianson, and that they were opposed to a program calling for private participation. His clients wanted a program which would call for the financing of the facilities by revenue bonds. He urged that a clear program be adopted, that the city obtain the advice of experts to determine the parking facilities needed, the cost of the facilities, the method of financing the program. His clients, he stated, would object to the shifting of the parking program cost to real estate property owners since they were already over burdened with taxes. They feel that it would be impossible to work out an equitable assessment district program on a square footage basis since so many different types of buildings would be involved in the district, which would result in a gross injustice on many properties. He pointed out that other cities had worked out a satisfactory program on the revenue bond basis by amending their charters and urged that the program proposed tonight by the off-street committee be considered.

The City Attorney pointed out the difficulties and expense involved in a program as recommended by the committee, such as the hiring of a traffic engineer to determine the facility needs and locations, a financial expert to determine the cost, etc. The expenses involved in such a program could run to approximately \$25/50,000, which would be wasted if the people would not vote the bonds. Mr. Herrington had contended, he stated, that it was not desirable to submit a survey first before

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an election on a charter amendment which would authorize the council to issue revenue bonds. This was only an empowering tool and that a survey should be obtained after the election. The only fee that would be necessary if the program was handled in this manner would be the bond counsel's fee of approximately \$1,000 in drafting the charter amendment.

If the Charter amendment was approved by the people then it would be time to hire recognized traffic expert, recognized financial bond counsel, then you could decide what the cost of a program recommended by the engineers would be and then with this information the Council could propose and would have the authority to sell revenue bonds to handle this program. He pointed out that a participation program with a revenue bond program would be a complex method---general obligation bonds would be simpler. Mr. Herrington had recommended that a combined revenue bond and assessment district program be weighed carefully before a decision is made as it would create considerable administrative problems.

Mr. Grimes stated that the square footage basis for an assessment district was not the normal basis used, but the assessed value basis, on the value of the land alone, was the normal basis used. If the Council issues the revenue bonds it has to spend the money, the City Attorney stated, all the resolutions effecting the interest of the bond, contracts for sites or demolition of buildings, all have to be done officially by the Council and the Parking Authority would be turned into an advisory board only.

Mayor Marks pointed out that the Council had not made any decision on the method or participation. He pointed out that the present parking program for the city had resulted in more parking lots per capita than the City of Sacramento had with its revenue bond program. He pointed out that at present 50% of the on-street parking revenue was going into the general fund and for every 5% deducted 1¢ would be added to the city's property tax rate. He stated that the city needed a parking program and that personally he would like to see a large one approved.

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A discussion was held by Mayor Marks and Mr. Bacon on the various plans submitted by the committee and the authority and the possibility of finding some solution to the problem.

Councilman R. Adams stated that "he wished to acknowledge the fine accomplishments of the Parking Authority. The Council, the Authority, the Chamber committee and the merchants all would like to see a parking program started immediately and with this thought in mind he wished to recommend to the Council for its consideration that the Authority be asked to proceed as an Authority and recognize the requests of various individual groups and a plan be completed for the purchase of parking lots with participation by these groups and individuals so that some relief could be afforded.

In the discussion that followed this suggestion, the following points were brought out:

Mr. Gant pointed out that this would temporarily relieve the situation but that it would not come to grip with the basic problem.

The City Attorney stated that the Authority had expressed the desire that it would prefer that the Council establish the percentage of participation as a policy matter.

Mayor Marks pointed out that this suggestion would be an interim program.

Mr. Bomberger pointed out that if the authority used the present funds in the purchase of these lots that it would reduce the amount of money which would be available when a large program was considered and thus increase the cost of revenue bonds.

Mr. Bacon asked "under this proposal how much of the parking meter revenues would the city commit to the parking authority--has that been discussed?"

Mr. Gant inquired if the contributions from property owners in this proposal, would be made entirely on a voluntary basis.

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It was pointed out that under an improvement or assessment district the majority determined whether or not the improvement was made.

Reese Wherry asked if there would be any objection if an improvement district was created and the revenue did not meet the interest and principal payments, if the property owners in that district would "back up the obligation."

Mr. Bomberger asked if the "imminent domain" method would be used in securing sites.

Various methods of financing the purchase were discussed and Mr. Gant agreed that the proposed interim program as outlined was a "sensible approach and that with a voluntary contribution basis of participation that there would be no objections from his clients."

The City Attorney pointed out that unless a set of rules was adopted setting forth the policies, the Authority would be unable to operate.

Mr. Bacon stated that as an individual he approved of adopting an immediate policy and lots be acquired with the money on hand.

Attorney Grimes pointed out that the proposal had a time advantage as an interim program since "we can move immediately and under a revenue bond program a large portion of the funds would need to be spent in administrative costs, special counsels, engineers, etc., and that this money would be taken away from the parking lots to pay expenses."

A discussion was held on the appointments to the two vacancies now existing on the Authority and it was brought out that the two members whose terms will expire had expressed a desire to be replaced. Whether the appointments would be made from property owners in the central business area was discussed with no conclusion reached.

George Lucas, member of the Authority, stated that he had served for 8 years on the Authority and that he has asked to be relieved. He recommended that consideration not be given to the use of money which had been derived from the parking meters in the business area for an outlying business area

unless a "dynamic" parking situation existed. He outlined a plan which the authority had been considering for the acquisition of property which could be handled if it could be subsidized by approximately \$200 a month and which would assure a parking area of approximately 150' x 140'.

Mr. Grimes pointed out the difficulty under which the authority had been operating during the past years due to the lack of a part time or full time staff to carry out its work. He recommended that serious consideration be given to the problem and that the Authority be authorized to hire competent personnel to carry out its plans.

Councilman R. Adams introduced

RESOLUTION NO. 54-50

seconded by Councilman Mellis, recommending that the Council clarify the program discussed, for the Parking Authority so that the Authority could proceed to purchase parking lots for the public use at a location which would be mutually agreeable, whenever any individual or group of individuals agreed to participate 25% or more in the cost of securing and improving the site, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Mayor Marks introduced

RESOLUTION NO. 54-51

seconded by Councilman Arata recommending that all the "net revenue" from on-street meters be placed under the control of the Parking Authority to be used for the operation, acquisition and development of the off-street parking facilities, such allocation to be effective as of July 1, 1954. The term "net revenue" to be defined as 75% of the gross revenue, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata and Mayor Marks

Noes: Councilmen: M. Adams and Mellis

Absent: Councilmen: Merrill

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Before the vote was taken the City Manager called the attention of the Council to the fact that the city faced a "tight" financial situation and that consideration should be given to reviewing this year's budget before any final decision was made.

Mayor Marks pointed out that as the central core of the city pays approximately 20% of the taxes, plus business licenses, the Council had some obligation to see that people of this community were provided with convenient parking areas in the center of the city.

Councilman Mellis reminded the Council that it was not in a position at this time to know whether this percentage could be changed and that he believed that it was making a mistake to decide at this time.

Councilman M. Adams urged delay until the budget figures would be available. He stated "I am not opposed to increasing the percentage to 75% but I would rather have an understanding on next year's budget before that is increased."

Mayor Marks asked Chairman Mensinger of the Parking Authority whether it would help the Authority in planning its program to know in advance that the percentage would be increased, to which Mr. Mensinger replied, "it would give us something to work on in forming our program."

Mayor Marks moved, seconded by Councilman Arata, and it was unanimously carried, that the Council endorse the administration and operation of the off-street parking program by the Parking Authority and that a directive be issued to the Parking Authority outlining the basic policy, as outlined by Councilman/<sup>R.</sup> Adams, as a frame work for operations, and that a policy statement be issued by the Council that the minimum amount of private participation acceptable on any project should be 25% or more.

MAYOR OUTLINE PARKING PROGRAM CONDUCTED BY CITY OF WHEELING, WEST VIRGINIA

Mayor Marks suggested that the Chamber committee investigate the plan in operation in the business district of Wheeling, West Virginia, where parking is prohibited in the morning until the stores are opened.

DEFER CONSIDERATION OF 1953-54 BUDGET REVISION

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The City Manager suggested, to which the Council agreed, that consideration of the 1953-54 budget revision be deferred until a later date. He stated that additional revenues and revenues, which had been anticipated and which were not coming in, would be taken into account and suggestions offered for necessary adjustments.

GRANT PERMIT TO L. R. VAN HORN TO REMOVE TREES AT OWN EXPENSE

A request was filed by L. R. Van Horn for permission to remove four trees in front of his business building at 430 14th Street. The Director of Public Works reported that there would be sufficient room to plant some type of ornamental shrub in the parking area and that he would recommend the removal of the trees at the applicant's expense with the provision that he be required to plant a type of ornamental shrub suitable to the city. Councilman R. Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that permit be granted to L.R. Van Horn to remove the four trees in front of his business building at his own expense, providing suitable shrubs of a type to be approved by the city, be planted in the parking area.

SET DATE FOR HEARING ON REQUEST OF CHARLES V. SALES TO SELL TAXICABS TO HERSHEL LAWRENCE, DBA SMITTY'S CAB

Application of Charles V. Sale to sell his taxicab business (City Cab Company) to Hershel Lawrence, dba Smitty's Cab, was considered by the Council. At the suggestion of the City Attorney, Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried that the time of 4:30 P.M., on Feb. 17 in the Council Chambers be set as the time and place for the consideration of the Council on the transfer of the taxicabs.

ACCEPT DONATION FROM MODESTO EMBLEM CLUB NO. 140 AND AUTHORIZE APPROPRIATION FOR PURCHASE OF DISHES AND SILVERWARE FOR YOUTH CENTER

The City Manager reported that a donation had been received from the Modesto Emblem Club No. 140, to be expended for the purchase of silverware and dishes for the L. J. Maddux Youth Center. Councilman Arata introduced

RESOLUTION NO. 54-53-N.S.

which was seconded by Councilman Annan accepting the donation of \$500 from the Modesto Emblem Club No. 140, authorizing the Mayor to write a

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letter of appreciation to said club, and authorizing appropriation transfer to the Recreation Department for the purchase of dishes and silverware for the Youth Center, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor  
 Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REPORT FROM BRUCE McKNIGHT, C.P.A. RE: PACIFIC TELEPHONE AND TELEGRAPH APPLICATION FOR RATE INCREASE

The City Manager summarized the conclusions in a report from Bruce McKnight, C.P.A., hired to represent the city at the hearings held by the Public Utilities Commission on the application (#33935) of the Pacific Telephone & Telegraph Company, for a rate increase. This report was referred to Councilman Annan for his study.

FINANCIAL REPORT FOR PERIOD ENDING JAN. 31, 1954. FILED

The financial report for the period ending Jan. 31, 1954, was considered and ordered filed in the office of the City Clerk

REPORT ON ACQUISITION OF RIGHT OF WAYS FOR WIDENING TULLY ROAD DEFERRED

At the suggestion of the City Manager, the report on acquisition of right of ways for widening Tully Road was not taken up.

LETTER FROM CITY PLANNING COMMISSION RE: PUBLIC HEARING ON PROPOSED ZONING ORDINANCE

A letter received from the City Planning Commission inviting the Council members to attend a special meeting of the Commission to be held on Feb. 15, at 7:30 P.M. in the Council Chamber to discuss various phases of the proposed new zoning ordinance, was read and ordered filed.

The City Manager suggested that the Council consider the possibility of amending the present interim zoning ordinance to provide that only one public hearing be held by the Commission on any rezoning matter, as it is now provided under the state law, and as it would be approximately 3-6 months before the new ordinance would be effective and there were a number of urgent matters which had been held up pending the adoption of the ordinance.

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Councilman Mellis suggested that further consideration be given to the proposed parking area requirements in the new ordinance.

PACIFIC GREYHOUND GRANTED PERMISSION TO PARK BUSES ON TENTH STREET DURING REPAIRS OF DEPOT

Upon the recommendation of the City Manager, Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously carried, that during the period its bus depot was under repair (approximately 2 weeks) that the Pacific Greyhound Bus Company be permitted to use 3-4 parking spaces on the west side of Tenth Street, between G and H Streets for the parking of busses, between the hours of 6 P.M. and 7 A.M. under the supervision of the Police Department.

GRANT PERMIT TO BOY SCOUTS TO USE PARKING SPACE IN FRONT OF MONTGOMERY WARD COMPANY

The City Manager reported that a request to use one parking space in front of the Montgomery Ward Store on 10th Street, between J and K Streets, on February 13th to display their exhibits, had been filed by the Boy Scouts. Approval had been obtained from the manager of the store by the Scouts, he stated. Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the use of one parking space be allowed the Boy Scouts to display their exhibits for one day only, Saturday, Feb. 13, 1954.

DISCUSS TRAFFIC PROBLEMS

Mayor Marks reported that he had noticed the sign "Yield Right of Way", used in various cities and suggested that the possibility of using them in Modesto be considered. The City Manager stated that this matter would be investigated.

The City Manager reported that the further investigation of the "Scramble" system was being held up pending employment of a Traffic Engineer.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman M. Adams, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:00 P.M.

  
ATTEST: REX E. GALEUS, CITY CLERK

Council Meeting

February 17, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P. M. as provided by Ordinance No. 1084-N. S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Absent: Councilmen: Merrill

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

Invocation was given by Rev. B. DenOuden of the First Christian Reformed Church.

DISCUSS LEGISLATION REGULATING SOLICITING IN CITY

Elmer Winger, G. Williams and Ed Griswold, appeared before the Council on behalf of the United Crusade organization. Mr. Winger stated that the organization had arrived at a point where it was necessary to have some measure of control over other organizations soliciting funds in the community. He urged that the Council consider the adoption of an ordinance which would regulate soliciting for funds in the city. During the first half of 1953, he stated, 18 different organizations had conducted drives for funds.

While all the details had not been worked out, he continued, it was the thought of the organization that with the cooperation of City Attorney Grimes, a proposal could be prepared and presented to the Council for its consideration which would provide for the screening and evaluating of the worth, motive and object of the various organizations applying for the privilege of soliciting funds. He suggested that organizations be required to complete an application before permit was granted which would show the name of the organization, the nature and type of soliciting proposed, name of the solicitors and salaries--how much of the money collected would be used in the local community and how much taken out of the community and various other questions. Also some control of the actual spending should be included in the legislation. He stated that it was not

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the intention of the United Crusade to curtail the local churches or any other worth while organization in any way in its drives for funds. The board or manner for screening the applications had not been considered as yet, he stated. Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the City Attorney be authorized to confer with the committee and present an ordinance for the Council's consideration providing for the regulation of organizations soliciting funds in the city which will meet with approval of the committee and bearing in mind the local problems.

Mayor Marks asked Rev. DenOuden, and he agreed, to sit in with the committee on drafting the ordinance.

LETTER FROM JOE MINENI JR. RE: PROPERTY NW CORNER JOHNSON-DOWNEY AVENUES

A letter from Joe Mineni, Jr., owner of property situated at the northwest corner of Johnson and Downey Avenues for an opportunity to discuss the "mutual problems" concerning the use of said property, was read. Since Mr. Mineni was not present Mayor Marks asked Councilmen Mellis and R. Adams and the City Manager to consult with Mr. Mineni on the matter.

LETTER FROM STANISLAUS COUNTY CHAMBER OF COMMERCE RE: RIVERBANK ORDNANCE PLANT

A letter from Stanislaus County Chamber of Commerce urging the Council to send an official letter to Senator Thomas H. Kuchel, and Congressman LeRoy Johnson asking for their assistance in keeping the Riverbank Ordnance Plant in operation, was read.

Councilman R. Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that the City Clerk be directed to prepare a letter for the signature of Mayor Marks urging Congressman LeRoy Johnson and Senator Thomas H. Kuchel to assist in keeping the vitally important government facility of the Riverbank Ordnance Plant in operation.

HEARING ON ANNEXATION OF MCHENRY VILLAGE ADDITION TO THE CITY

Mayor Marks declared the hearing open for the consideration of the petition of Lawrence Robinson and Sons and McHenry Village, Inc. for

the annexation of the McHenry Village Addition to the City of Modesto and for the hearing of protests to the proposed annexation.

The City Clerk filed a statement that the notice of the hearing had been published in accordance with the law; that notices had been forwarded to all property owners, and that no written protests had been filed.

After the Mayor had ascertained that no oral protests were to be filed, he declared the hearing closed. Councilman Arata moved the adoption and passage to print of

ORDINANCE NO. 1108-N. S.

entitled: "AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE McHENRY VILLAGE ADDITION TO THE CITY OF MODESTO", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

AUTHORIZE REDUCTION OF PERFORMANCE BOND OF ROBERT P. BOMBERGER ET UX ON  
CAMPUS TRACT #5

A report from R. E. Fredricksen, Assistant Director of Public Works recommending that the performance bond furnished by Robert P. Bomberger and Muriel F. Bomberger guaranteeing the development of Campus Tract #5, in amount \$32,000, be reduced to \$14,900. as a portion of the work had been completed to his satisfaction, was read. Councilman Mellis introduced

RESOLUTION NO. 54-54

seconded by Councilman Annan, authorizing the reduction of the performance bond furnished by R. P. Bomberger, et ux, on Campus Tract #5 to \$14,900 which resolution was adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

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REPORT ON PERMIT FEE FOR HOUSE SEWER CONNECTION

The City Manager reported that a study had been made by the Public Works Department on the inspection fee for house sewer connection, which under the new Plumbing Ordinance No. 1100-N. S. was \$5.00, and under the old ordinance \$2.50. It has been the practice for a number of years for the Inspection Department to provide a saddle free of charge to the plumber which had cost the city about \$2.00, but whenever there was an existing wye in the sewer lateral, the saddle was not necessary. The saddle had been provided by the city as a matter of convenience to the plumber, he stated, and the city had a supply on hand. He suggested that after the supply was used that the city "go out of the plumbing supply business" and that the fee be replaced at \$2.50. Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the City Attorney be instructed to draft an amendment to Ordinance No. 1100-N. S. changing the fee to \$2.50, for the consideration of the Council.

REPORT BY CITY ATTORNEY ON REGULATION OF ADVERTISING ON CITY STREETS BY MEANS OF MOTOR VEHICLES

The City Attorney reported that he had contacted the League of California Cities, as requested by the Council, with regard to regulations established by other cities on advertising on city streets by means of motor vehicles and through the Research Department of the American Municipal Association he had secured an ordinance from the City of Cincinnati, Ohio which he had modified and which he presented for consideration of the Council.

The suggested provision read:

"Advertising on Vehicles---It shall be unlawful for any person to operate or to park any vehicle on any street or highway in the City of Modesto for the primary purpose of commercial advertising; provided, however, that in the case of public undertakings, or undertakings sponsored by charitable, benevolent or religious organizations the City Manager shall be authorized to issue temporary permits for the use of vehicles for such purposes, where no charge to the sponsor is made for the use of the vehicle. In granting any such permits, the City Manager may impose such limitations and restrictions as may be conducive to the public welfare."

The City Attorney recommended that the wording "primary" be deleted.

A discussion was held on whether the City Manager or the Council should issue the permits. The City Manager stated that if the ordinance made clear on what basis the granting of permits would be approved, that it would be possible to grant them administratively.

The City Attorney questioned whether merchant groups should not be entitled to a permit any more than individual merchants. He suggested that the basis for granting permits be established as "a non-profit organization which has a legal bonafide organization."

Councilman M. Adams suggested that the Merchants Association or the Chamber of Commerce approve the organizations before permits were issued.

Councilman Mellis moved, seconded by Councilman R. Adams that the City Attorney be instructed to prepare an amendment to the ordinance which would be worded along the lines discussed for the consideration of the Council, and it was unanimously carried.

HEARING ON ANNEXATION OF BRIGGSMORE ADDITION TO THE CITY

Mayor Marks declared the hearing open for the consideration of the petition of Coddling Homes, for the annexation of the Briggsmore Addition to the City of Modesto and for the hearing of protests to the proposed annexation.

A statement filed by the City Clerk that the notice of the hearing had been published in accordance with the law, that notices had been forwarded to all property owners, and that no written protests had been filed, was read by the City Manager.

After the Mayor had ascertained that no oral protests were to be filed, he declared the hearing closed. Councilman Mellis moved the adoption and passage to print of

ORDINANCE NO. 1109-N.S.

entitled: "AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE BRIGGSMORE ADDITION TO THE CITY OF MODESTO", which motion being duly

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seconded by Councilman M. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

APPLICATION OF CHARLES SALES FOR TRANSFER OF CERTIFICATES OF PUBLIC CON-  
VENIENCE AND NECESSITY TO HERSHEL LAWRENCE

Mayor Marks declared the hearing open for the consideration of the request of Charles V. Sales to sell his taxicab business to Hershel Lawrence now operating Smitty's Cab Company which called for the transfer of three certificates of public convenience and necessity.

As provided by Ordinance No. 1053-N. S. a report was filed by Police Chief Neel, and he recommended that since Mr. Sales had not used the third permit approved by the Council January 13, 1954, that transfer be approved of two permits only to Mr. Lawrence. This report also gave a resume of the number of permits issued, transferred, decreased and increased by the Council to various companies from October, 1953, and a copy of which is on file in the office of the City Clerk.

City Attorney Grimes stated that it was his opinion that the city had not been fully administering the ordinance, regulating taxicabs, according to the fundamental principles it contained. It is the city's responsibility, he contended, to see that, 1)the citizens have adequate taxicab service, and 2)the rate is fair and equitable.

Since the report submitted did not determine 1)the demand of the public for additional taxicab service, and 2)the adequacy of existing mass transportation and taxicab service, the City Attorney stated, there was not sufficient information available for the Council to render a sound decision on whether this request of Mr. Sales for transfer of permits be approved.

The City Manager pointed out that the Police Department did not have the facilities to conduct the type of investigation required in the

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ordinance and suggested that in the future when the taxicab companies filed requests for changes in their operations that the burden of proof be placed on the applicant. He suggested that the ordinance be amended to require that a complete report be submitted by the applicants when they filed a request for a change in status, and it was agreed by the Council that the City Manager and City Attorney investigate this matter and until this has been cleared that no new permits would be granted.

Both Sam Secreto and Joe Sequeira opposed the transferring of the permits from Mr. Sales to Mr. Lawrence since "there were too many permits for the amount of business", and they would like to see the number of permits decreased.

After a general discussion it was agreed that the only question before the Council was the request for transfer of permits. Mayor Marks declared the hearing closed and Councilman Mellis introduced

RESOLUTION NO. 54-55

seconded by Councilman Arata approving the transfer of two certificates of public convenience and necessity to operate taxicabs in the city from Charles V. Sales, dba "City Cab Company", to Hershel I. Lawrence, dba "Smitty's Cab Company", on the condition that prior to the transfer all of the indebtedness against the certificates be cleared and that the remaining certificate possessed by C. V. Sales be cancelled, which resolution was adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

COUNCIL INDICATE WILLINGNESS TO ACCEPT RIGHT OF WAY DEED FOR WIDENING  
JUDITH LANE

Phil Humphrey reported that the work on the Max Foster building at Judith Lane and McHenry Avenue had progressed to the point where sewer service, (which the city had agreed to furnish prior to annexation), would be needed. The right of way deed for the widening of Judith Lane

was in escrow, he stated, and in order not to cause any delay in the awarding of the bid for the construction of the sewer lateral, (which would be opened on Monday, February 15), he asked the Council to express its willingness to accept the deed at this time. The Council indicated its willingness to accept the right of way deed for the widening of Judith Lane upon approval of the City Attorney.

ORDINANCE APPROPRIATING ADDITIONAL REVENUE FOR USE DURING THE 1953-54 FISCAL YEAR

The City Manager filed a report listing additional revenues, not heretofore appropriated, which will be received during the 1953-54 fiscal year, totaling \$56,452, and listing reductions in anticipated revenue estimates for the 1953-54 fiscal year, previously appropriated, totaling \$36,000, leaving a balance available for appropriation of \$20,452. This report also showed anticipated additional revenues, not heretofore appropriated, of \$16,000 in the Special Gas Tax Improvement Fund from the State Gas Tax Apportionment.

The City Manager stated that due to the large annexations which had taken place in the last few months, which had increased the estimated population by approximately 12,000, it would be necessary to increase the budgets of various departments and that he had asked each department to submit a report of additional funds needed to operate until July 1, 1954. A revision of this request, which totaled, \$20,452, was submitted to the Council (copy of which is on file in the office of the City Clerk).

The City Manager reported a savings of \$2832.00 on the purchase of a mechanical sweeper and suggested that this amount be transferred to "contingency reserve" to be used in the "street reconstruction program on a stepped up basis."

The City Manager reported that the city was facing the tightest possible situation to "get over" until July 1st of this year and that an E and E program, "Economy and Efficiency", had been inaugurated. He had met with various employees groups the past week "laying it on the line

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that we would have to do a lot more and do it better than ever before and that he would expect full cooperation."

He reported on the program recently started by the Parks Department on the planting of trees with a new mechanical hole diggine machine (a copy of which report is on file in the office of the City Clerk) which indicated that by employing machine methods, the planting cost per tree had been reduced approximately 85¢.

He pointed out that the new E and E program was not a "speed up program" but a "heads up program". There was no discredit to anyone who has been doing his job, the City Manager stated. He pointed out that the right kind of equipment, the right methods, and good management and supervision, were vital points in getting more work done. The public expects, demands and will get better performance now. Councilman R. Adams moved the adoption and passage to print of

ORDINANCE NO. 1110-N. S.

entitled "AN ORDINANCE APPROPRIATING ADDITIONAL REVENUE FOR USE DURING THE 1953-54 FISCAL YEAR", which motion being duly seconded by Councilman Mellis, was upon roll call carried and the ordinance adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

Councilman M. Adams introduced

RESOLUTION NO. 54-56

seconded by Councilman Arata approving appropriation transfer of \$2,832 from the Street Division--Capital Outlay Mechanical Sweeper, to contingency reserve to provide for a stepping up street maintenance program and/or other contingencies, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

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Noes: Councilmen: None

Absent: Councilmen: Merrill

The City Manager stated that a visit had been made recently to the cities of Santa Clara, San Jose and Palo Alto by a group of department heads, checking out feasibility of installing joint police and fire radio operation and it appeared that very solid savings in equipment and operation could be made.

PROPOSING AN AMENDMENT TO THE ZONING ORDINANCE RE: NUMBER OF HEARINGS REQUIRED

The City Attorney presented for the consideration of the Council, as requested, a resolution which would propose the initiation of an amendment to the zoning ordinance No. 700-N. S. which would eliminate one hearing by the Planning Commission on rezoning of property. Councilman Mellis introduced

RESOLUTION NO. 54-57

seconded by Councilman R. Adams, requesting the Planning Commission to initiate proceedings to amend subsections (a) and (b) of Section 19 of Ordinance No. 700-N. S. to provide that only one hearing on a petition for rezoning be held by the Planning Commission and that the City Clerk transmit a copy of this resolution to the Planning Commission for appropriate action in implementation thereof, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

PROPOSE INITIATION OF AN AMENDMENT TO THE ZONING ORDINANCE REGARDING THE ZONING OF CROWS LANDING INDUSTRIAL ADDITION

The City Attorney presented a resolution for the consideration of the Council which provided for the initiation of an ordinance by the Planning Commission amending Ordinance No. 700-N. S. to zone the Crows Landing Industrial Addition. Councilman Annan introduced

RESOLUTION NO. 54-58

seconded by Councilman Arata, recommending that an amendment to Ordinance No. 700-N. S. be initiated by the Planning Commission to provide for the adoption of land use District Map No. 10 to precisely zone the land area included within the Crows Landing Industrial Addition and that the City Clerk transmit a copy of this resolution to the Planning Commission for appropriate action in implementation thereof, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ESTABLISH BASIS OF POLICY IN THE GUIDANCE OF THE PARKING AUTHORITY IN ADMINISTERING AN EXPANDED OFF-STREET PARKING PROGRAM

The City Attorney presented a resolution outlining the basic principles to govern the activities of the city Parking Authority in conducting an expanded off-street parking program for the consideration of the Council, which was discussed and with a few minor changes in wording was approved. Councilman Arata introduced

RESOLUTION NO. 54-59

seconded by Councilman M. Adams, adopting a statement of principles to guide the City of Modesto Parking Authority in its implementation and administration of an expanded off-street parking program, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that the City Clerk be directed to furnish to each member of the Parking Authority a copy of this resolution outlining the basis of policy and a copy for the official files of the Authority.

APPOINTMENT OF MEMBERS TO PARKING AUTHORITY

Councilman M. Adams introduced

RESOLUTION NO. 54-60

seconded by Councilman Arata, appointing A. M. Rose to the Modesto Parking Authority for a term of office which shall expire on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

Councilman Mellis introduced

RESOLUTION NO. 54-61

seconded by Councilman Arata, appointing Mel Harris to the Parking Authority of the City of Modesto for a term of office which shall expire on January 1, 1958, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

INSTRUCT CITY MANAGER TO PROCEED ON A LIGHTING DISTRICT FOR CENTRAL AREA OF CITY

Mayor Marks moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager proceed forthwith on a lighting district in the central business area and to cooperate with the Chamber of Commerce and the property owners in forming the district.

LETTER OF APPRECIATION AUTHORIZED TO GEORGE LUCAS

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the Mayor be authorized to write a letter of appreciation to George Lucas for his long and faithful service on the Parking Authority and that a certificate of public service be issued to him.

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CHANGES IN PARKING REGULATIONS

The City Manager reported that as a result of recent study and field investigation the traffic committee recommended for the Council's consideration that 2 hour time limit on parking on both sides of 16th Street between I and J Streets be established and that the two hour time limit be removed from the west side of 10th Street between D and E Streets and on the east side of 10th Street from the southerly edge of the private driveway leading into the United Lumber Yards, extending south to the intersection with D Street.

It was agreed by the Council that a resolution effecting the recommended change on 16th Street be prepared but that a further study be made on the recommendation of removing time limit signs on 10th Street.

REPORT ON FEDERAL TAXATION OF MUNICIPAL BONDS DEFERRED

The City Manager stated that reproductions of the report on federal taxation of municipal bonds would be sent to each Councilman.

CITY MANAGER TO INCLUDE SUMMARY OF "EFFECTED ECONOMIES IN OPERATION OF CITY" IN ANNUAL BUDGET

Upon the recommendation of Councilman Mellis, the City Manager agreed to include in the annual budget a summary of various savings made in the operation of the city.

REPORT ON COST OF AERIAL MAP

The City Manager reported that in view of the many needs of the city that he would suggest that the request of the City of Turlock to join with other cities in the county in a joint aerial map project not be accepted.

Councilman M. Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that Mayor Marks be authorized to write a letter of explanation to Mayor Christoffersen of Turlock.

CITY ATTORNEY REPORT ON NOTICIFATION OF EXPIRATION OF FRANCHISE FORWARDED TO THE TIDEWATER SOUTHERN RAILWAY COMPANY

The City Attorney read a copy of a letter which had been sent

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to the Tidewater Southern Railway Company notifying them of the expiration of its franchise to operate in the city and asking that a conference be held in the near future.

CITY MANAGER REPORTED THAT ASSISTANT CITY MANAGER WOULD NOT ATTEND CONFERENCE OF CITY MANAGERS IN SANTA MONICA

Plans for the attendance of Assistant City Manager, Robert Shelton, jointly with the City Manager, to the City Manager's Conference in Santa Monica next week had been changed and Shelton would remain in Modesto, the City Manager stated.

CARD FROM COUNCILMAN LYNDALL MERRILL

A card from Councilman Lyndall Merrill, who was on an extended trip, was read.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the Council meeting now in session adjourn. The meeting adjourned at 6:30 P. M.

  
ATTEST: REX E. GAILFUS, CITY CLERK

2-17-54

February 24, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks

Absent: Councilmen: None

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

Invocation was given by Rev. J. U. Simmons, retired.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of January 29 and February 3, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM MODESTO JUNIOR CHAMBER OF COMMERCE; RE: CALIFORNIA RELAYS

A letter from the Modesto Junior Chamber of Commerce, advising that the date of May 22, 1954, had been set for the holding of the California Relays in Modesto and that in conjunction with the Relays, a "Parade of Songs" would be held in the evening of May 21, was read. It requested that in order to avoid any conflict that the Council keep these dates in mind when scheduling other public events in the city.

Mayor Marks asked the City Clerk to keep these dates in mind for the Council's information.

#### ASSISTANT CITY MANAGER ACT IN PLACE OF CITY MANAGER

City Manager Miller, President of the Managers' Department of the League of California Cities, was absent in order to preside at the Department's annual meeting, in Santa Monica. Assistant City Manager Shelton acted in his place.

#### LETTER FROM SHORELINE PLANNING ASSOCIATION OF CALIFORNIA INC.

A letter from the Shoreline Planning Association of California Inc., relating to allocation of tideland funds for recreation, was read and ordered filed, as the action requested had already been taken by the Council, at its meeting of February 3, 1954.

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A LETTER FROM BUDD AERO INC., RELATING TO AIRCRAFT ADVERTISING

A letter was read from Budd Aero Inc., of Dinuba, stating that it planned to operate an aircraft advertising business throughout the state and outlining its method of operation.

The City Attorney pointed out that the city does not have an ordinance prohibiting advertising by aircraft and that in order to control it, an ordinance would be necessary. He said since the letter appeared to be a form letter and probably had been sent to many other cities, he recommended the Council delay passing legislation to regulate this type of operation at this time and await developments. The Council could, however, go on record, he stated, that it opposed this type of advertising.

Councilman Merrill recommended that since this type of advertising was already regulated on the streets in the city, legislation should be adopted at this time.

After a general discussion, Councilman Merrill moved, seconded by Councilman Mellis, and it was unanimously carried, that the City Attorney be directed to acknowledge receipt of the communication and to express the opposition of the Council to this type of advertising and to advise the company that if it is necessary, legislation would be initiated prohibiting it.

ACCEPT DEED FROM HARRY MAX FOSTER, ET AL, AND AUTHORIZE RECORDING

The City Attorney presented for the consideration of the Council, a grant deed from Harry Max Foster and Verda Foster, husband and wife; Phillip E. Humphreys and Helen Humphreys, husband and wife; and Charles E. Hayes and Hortense B. Hayes, husband and wife, to the City of Modesto, dated February 8, 1954, covering a portion of lot 2 of the Fresno Tract, to be used for certain alleys and in the widening of Judith Lane. Councilman Annan introduced

## RESOLUTION NO. 54-62

seconded by Councilman Arata, accepting the deed above mentioned from the said parties and authorizing the City Clerk to record said grant deed with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks

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Noes: Councilmen: None

Absent: Councilmen: None

ACCEPT BID OF ANDREW P. RASMUSSEN FOR CONSTRUCTION OF SANITARY SEWERS IN BLOCKS 6196 and 6198

Copies of the tabulation of the four bids received for the construction of sanitary sewers in Blocks 6196 and 6198, which had been opened in the Council Chambers on February 23, at 10 A.M., together with a report from Director of Public Works Ray, recommending that the bid of Andrew P. Rasmussen be accepted, as it was the lowest bid received, were distributed to the Council members for their consideration. Councilman Mellis introduced

RESOLUTION NO. 54-64

seconded by Councilman M. Adams, accepting the bid of Andrew P. Rasmussen of \$2,317.10, as it was the lowest bid received, and authorizing the execution of a contract for the completion of the work, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

AUTHORIZE PAYMENT OF CLAIM OF \$600 TO STANISLAUS COUNTY BAND INC.

A claim filed by the Stanislaus County Band for \$600, being balance due for the 1953 summer concerts, was considered. Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the claim of \$600 of the Stanislaus County Band be paid.

REQUEST OF MINENI AND FUKUI FOR SEWER AND WATER SERVICES TO SUBDIVISION ON SUTTER AVENUE

Joe Mineni and Rita Fukui appeared before the Council and requested that sewer and water service be furnished to a 77 home subdivision being planned west of Sutter Avenue, south of Sunset Manor Tract, which is not contiguous to the city limits.

Mr. Mineni stated that if sewer laterals could be placed in the streets of his proposed subdivision instead of the alleys, that only two lines would be needed.

Assistant Director of Public Works Fredricksen stated  
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that if this was permitted it would possibly penalize the property owners in the Sunset Manor Tract when it was annexed to the city, by causing them to pay for two lines to serve one of the blocks in the tract. It was pointed out that this newly developed area, which is contiguous to the city, had been improved with septic tanks and that there would be some question whether its residents would be in favor of annexing at this time.

Councilman Mellis pointed out that eventually the Mineni and Fukui tract would be a part of the city and that these services should be furnished but that the Council was not qualified to determine at this time whether the sewer lines should be constructed in the streets or alleys ---this was an engineering problem. However, he said, the Council could indicate its intention to Mr. Mineni that these services would be granted.

Mr. Mineni stated that it would be cheaper to serve the area with septic tanks if he was required to build three sewer laterals. He pointed out that he was willing to pay the city the required \$100 per acre fee to be used for the development of a park as required by Subdivision Ord. No. 1041-N.S.

Mr. Shelton pointed out that this general area did not have a park and he suggested that the Council consider early acquisition of at least a five acre site for a neighborhood park.

When Mr. Mineni questioned the reaction of the Council to the possibility of zoning the frontage of the tract for business, he was informed that it would be necessary for the Planning Commission to consider the subdivision before the Council would act on that question.

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that water and sewer service be furnished the Mineni and Fukui tract on the condition that the subdivision be completed in accordance with the city's subdivision ordinance No. 1041-N.S.; that the sewer laterals be installed in accordance with the recommendations of the Department of Public Works; that an agreement be entered into with the city by the subdividers that the subdivision will be annexed if it is feasible and if not feasible that it will be annexed as soon as it is legally possible.

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REQUEST OF MODESTO GARDEN CLUB TO USE L. J. MADDUX YOUTH CENTER FOR GARDEN SHOW

The Assistant City Manager reported that a request had been filed by the Modesto Garden Club to rent the L. J. Maddux Youth Center building for its spring flower show to be held tentatively April 9-11 inc, since the show planned for this year is to be much larger than the past shows which were held (free of rental charges) in the Boy Scout Clubhouse.

He stated that resolution No. 54-8, adopted by the Council on January 13, 1954, established interim policies governing the use of the center as well as a schedule of priorities and fees for the rental of the building. This club, he stated, would come under group "D" of priorities, which calls for rental fees of \$7.50 for morning; \$7.50 for afternoon, and \$15.00 for evening. It is the desire of the club to use the center from Friday noon until Sunday evening and it has asked that the rental for this entire period be reduced to \$35.00, and that the requirement that the center be closed on Sunday be waived.

After considerable discussion, it was generally agreed that youth should have priority in the use of the center at all time but that since provisions had been made for civic groups to use the building that adult activities could be scheduled under the conditions set forth in Resolution No. 54-8, as to reservation policy, and rental fees.

Mayor Marks asked the Assistant City Manager to contact the Modesto Garden Club and advise them that the rate schedule could not be reduced and to determine whether the club was still interested in using the center under this condition.

CONSIDER PROPOSAL FOR ESTABLISHMENT OF NEW COMMERCIAL OPERATION AT AIRPORT

Airport Manager Sham reported that a business acquaintance of his wished to establish a Beechcraft service station for the repair of airplanes at the Municipal Airport and that this person would be willing to put up a building himself which would cost approximately \$12-13,000 if the city would buy back the building within 2 to 3 years. He is willing, Mr. Sham stated, to pay the city \$25.00 per month rent for the ground until such time as the city buys the building back from him.

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If this would meet with the Council's approval, he stated, arrangements could be made to use the unrefunded gas tax money received from the state, amounting to approximately \$12,000 during a 2 to 3 year period, and which must be spent for airport capital outlay purposes.

After a general discussion of the offer it was agreed that the City Manager and City Attorney be authorized to make a study of the offer and to report back to the Council.

RESOLUTION ESTABLISHING LIMITED PARKING ON 16th STREET BETWEEN I AND J STS.

The City Attorney presented for the consideration of the Council a resolution establishing limited parking on both sides of 16th Street, between I and J Streets. Councilman Mellis introduced

RESOLUTION NO. 54-63

seconded by Councilman Arata, establishing two hour parking limitation on both sides of 16th Street, between I and J Streets and directing the Director of Public Works to mark and/or post the described area in accordance with the provisions of this resolution, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

LETTER FROM FRANK ANDREWS: RE: MODESTO'S WATER SUPPLY

A letter was filed by Frank Andrews urging that the city ask for a share of the Cherry Project water "since our taxpayers are paying around 50% of our irrigation taxes and 75% of the electrical profits."

Mr. Andrews was present and stated that he intended, within the next two months, to circulate a petition urging that Congress, when adopting the appropriation bill for the Cherry Project, allocate a certain amount of water to the City of Modesto. It was agreed by the Council, after a discussion of the matter, that the City Attorney and City Manager should make an investigation and present a report of the facts to the Council for its consideration.

REPORT ON USE OF BALL PARK

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Councilman R. Adams, member of the temporary committee appointed by Mayor Marks to confer with the Modesto Red's Baseball Club group, reported that the group sponsoring the Club requested basically three things:

- 1-That the present contract between the City of Modesto and the Modesto Community Athletic Association be either assigned to the new group sponsoring the club or a new contract be prepared by the City Attorney and the attorney for the group, suitable to both the city and the group.
- 2-That the city paint white lines around the parking area so that the need for policemen for parking cars before the games could be reduced or eliminated.

Councilman R. Adams stated that the Director of Public Works had estimated that it would require 1-1½ days to complete this job.

- 3-That the city take over the maintenance of the grass at the park. (The cleaning up of the ground is still to be the responsibility of the club.)

Councilman R. Adams stated that the annual estimated cost of maintenance of the grass had been figured by Superintendent of Parks Lowrey to be approximately \$2000.

During the season of 1953 only 53,000 attended the games and the city's income, based on 3¢ per ticket was \$1500. If the group is to maintain a club in Modesto, Mr. Adams stated, they must have an attendance, by 1955, of approximately 70,000, to break even. He pointed out that the other California League baseball teams used either college or other school grounds and their only expense was for electric lights and that based on an expected attendance of 70,000 at 3¢ admission tax per ticket the revenue derived would reimburse the city for the expenditure of maintaining the grounds.

He recommended that the city take over the greens keeping, paint the lines for the parking of automobiles, and refer the legal arrangements of a contract or the assignment of the present contract, to the City Attorney and the group's attorney. The group, he stated, would like an indication as soon as possible of what the Council would like to do.

Councilman Annan moved, seconded by Councilman M. Adams and it was unanimously carried, that the legal arrangements on the contract be referred to the City Attorney; that the white parking line be painted

by the city; and that the city assume responsibility of the care of the grass at the park.

Councilman R. Adams stated that the Athletic Association had ended up its operations of the club with an indebtedness of approximately \$12/\$14,000 of which \$900 was due the city for admission tax for 1953 and \$2000 for 1952. Although the new group sponsoring the club was in no way connected with the former sponsor, the Modesto Community Athletic Association, it was agreed by the Council that if the Modesto Red's became solvent, the city should be reimbursed on a pro rata basis the same as other debtors.

Councilman Mellis recommended that consideration be given to charging an extra 5¢ tax on each admission ticket and the funds realized be used to build a new grand stand. He stated that the tickets had already been printed for this year's games and that it would be impossible to charge the extra tax this season but that the group had agreed that if it was given notice sufficiently in advance next season that this could be printed on its tickets.

The City Attorney questioned whether it would be legally possible to increase the admission tax for only one type of entertainment.

REQUEST TO INSTALL BANNER IN BUSINESS DISTRICT DENIED THE GREATER MODESTO CRUSADE FOR CHRIST WITH DR. JACK SHULER

A request filed by the "Greater Modesto Crusade for Christ with Dr. Jack Shuler, "for permission to install a banner in the business district advertising a religious campaign to be conducted during the period March 15 through April 11, was considered. Since the policy for installation of banners established by Resolution No. 9433-N.S., prohibited this type of advertising, Councilman Arata moved, seconded by Councilman R. Adams, and it was unanimously carried, that the request of above named applicant be denied.

REMIND COUNCIL OF YOUTH CENTER DEDICATION

Assistant City Manager Shelton reminded the Council members of the dedication services to be held at the Youth Center Sunday, Feb. 28 at 4:00 P.M.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman

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Annan, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 9:30 P.M.

*R. E. Gailfus*  
ATTEST: REX E. GAILFUS, CITY CLERK

2-24-54

March 3, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M., as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Pro Tempore Merrill

Absent: Councilman Arata and Mayor Marks

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

Invocation was given by Rev. Dodds Bunch of the Centenary Methodist Church.

APPROVAL OF COUNCIL MEETING MINUTES

Council members having received copies of the minutes of the meeting of February 10, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

LETTER FROM BROWN MOTOR CO., INC. OFFERING TO SELL PROPERTY TO CITY

A letter was read by the City Manager which had been received from Brown Motor Company, Inc., offering to sell its property adjoining the police station on Tenth Street, being lots 19-20-21, Block 71, to the City of Modesto, for \$36,000. Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the City Manager and the Building Committee investigate and report at a later date.

LETTERS FROM MODESTO POLICE ASSOCIATION AND THE MODESTO UNIFORM FIREMEN ASSOCIATION RELATING TO RETIREMENT SYSTEM

Letters from the Modesto Police Association and the Modesto Uniform Firemen Association, were read, which requested that the Council consider amending the existing contract with the State Employees' Retirement System to include Section 20952.5, which was adopted by the 1953 State Legislature, providing a local safety member of the retirement system may retire at age 50 providing he has 20 years of continuous service.

It was agreed by the Council that these letters be referred to the City Manager and the Personnel Commission for analysis and report.

CONSIDERATION OF STATUS OF ANNEXATION OF McHENRY VILLAGE ADDITION

The City Manager reported that due to an error in the description of the boundaries of the McHenry Village Addition, the annexation of the addition to the city had not been completed. He stated that he had contacted Mr. St. John of the McHenry Village, who had assured him that there would be no problems involved in submitting a new petition for annexation.

The City Manager suggested that when considering the new annexation proceedings that the Council consider,

1-That as the annexation proceedings had been conducted in good faith by all parties concerned, that during the approximate 2 months interim period before new proceedings would be completed, that fire protection be furnished the addition.

2-That in the new proceedings that the original territory be included.

He pointed out that it would be possible to eliminate certain small commercial properties, whose owners had objected to being included, in the new proceedings and by doing so the addition could be subject to the present bonded indebtedness. However, he stated, it would create an unsatisfactory situation as far as the other merchants in the area who requested that they be included to assure uniformity on the city sales tax.

The possibility of the annexation proceedings being challenged due to the possibility that certain property owners did not receive notices in accordance with the law, due to the error in boundary description, was brought up by the City Attorney. He recommended that the Director of Planning contact the petitioners and assist them in getting under way a new petition for annexation. Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the city be authorized to provide fire protection to the McHenry Village Addition as originally outlined and assist them if they need any police protection.

CONSIDER REQUEST OF TWELFTH NAVAL DISTRICT FOR ADDITIONAL SPACE AT AIRPORT

A letter received from the Twelfth Naval District was read, stating that "the Navy Department tentatively contemplated the construction of a Naval Reserve Electronics Facility in Modesto as an addition to the present inadequate quarters."

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of the Twelfth Naval District,  
Lt. Com. Lee, who was present, stated that Modesto was one of the

three places in the country where permanent facilities were being proposed. A twenty year lease for three additional acres at the airport was requested. If this is impossible, he stated, the Navy will have to reevaluate its position with regard to expansion of its reserve facilities in Modesto. He pointed out that if the Navy were to use a new location in the city to build its new facilities, this would mean the abandonment of its present \$12,000 facilities at the airport. He stated that a new lease could have a clause which would provide if the permanent facilities were abandoned by the Navy that in lieu of restoring the land to the original condition that the facilities be turned over to the city for its use. He urged prompt consideration of the proposal by the Council since surveys and plans would have to be completed before Congress would consider appropriating the funds.

Kenneth Bieseimer, local officer in charge of the Naval Reserve organization, stated that at the present time there were 18 officers and 100 men using the facilities at the airport, with a payroll of approximately \$10,000 every three months. If the new facilities are made available, it is proposed to increase this number to 29 officers and 200 men, which would double the present payroll.

Councilman R. Adams stated that the granting of this additional land would be contingent <sup>upon</sup> plans for the development of the airport.

Mayor Pro Tempore Merrill assured the Navy representatives that the city would cooperate as much as possible. He appointed a committee of Councilmen R. Adams (chairman), Mellis, the City Manager and Airport Manager Sham to work with the Navy representatives and to report to the Council.

REPORT ON REQUEST FOR CHANGE IN TRAFFIC REGULATION ON ORANGEBURG AVENUE  
FILED BY JACK A. WIER

The City Manager read a copy of a letter which had been sent to Jack A. Wier by Director of Planning Bills, in answer to his request that the stop signs be eliminated at Sycamore and Orangeburg Aves. and traffic

signals be installed at McHenry Avenue and Orangeburg Avenue. Mr. Bills had pointed out in this letter that the traffic control at McHenry and Orangeburg was a joint county, city and state responsibility, and that the city had asked the state to check this situation at the earliest possible date. Until plans for proper pedestrian safeguards have been completed on Orangeburg Avenue, Mr. Bills had stated, any action which might tend to increase the speed of traffic on this street would be unwise.

APPROVE ASSIGNMENT OF AGREEMENT TO STANISLAUS COUNTY ATHLETIC ASSOCIATION

The City Attorney summarized the provisions of an agreement providing for the assignment of the interest of the Modesto Community Athletic Association in the Municipal Baseball Park to the Stanislaus County Athletic Association. Councilman R. Adams introduced

RESOLUTION NO. 54-67

seconded by Councilman M. Adams, approving the agreement, and authorizing the execution, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Pro Tempore  
Merrill

Noes: Councilmen: None

Absent: Councilmen: Arata and Mayor Marks

A general discussion was held on the possibility of modifying the agreement to provide for an additional tax to be added to each ticket for the purpose of raising funds to improve the grand stand. The City Clerk was instructed to bring this matter to the attention of the Council early in August of next year so that further consideration could be given to this matter.

ACCEPT DONATION FROM WOMEN OF THE MOOSE FOR THE MADDUX YOUTH CENTER FURNISHING FUND

Councilman Mellis introduced

RESOLUTION NO. 54-68

seconded by Councilman R. Adams, accepting the donation of \$100 from the Women of the Moose for the Maddux Youth Center Furnishing Fund; authorizing the appropriation transfer to Recreation Department for expenditure for furnishing for the Youth Center, and authorizing the Mayor to write a

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letter of appreciation to the Women of the Moose for the donation, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Pro  
Tempore Merrill  
Noes: Councilmen: None

Absent: Councilmen: Arata and Mayor Marks

RESOLUTION ESTABLISH TEMPORARY TAXICAB STAND ON G STREET FOR JOE'S TAXICAB DURING REMODELING OF GREYHOUND BUS DEPOT

The City Manager reported that during the period the Greyhound Bus Depot is being remodeled, it would be necessary to assign a new parking area to Joe's Taxicab Co. The City Attorney presented for the Council's consideration a resolution establishing the temporary taxicab stand on the north side of G Street at Tenth Street, adjoining the Bus depot. Councilman Annan introduced

RESOLUTION NO. 54-66

seconded by Councilman M. Adams, designating the following location as a temporary taxicab stand (July 3, 1954) for Joe's Taxicab Company

"Beginning at a point on the North side of "G" Street at the west property line of Tenth Street and continuing West along the north side of "G" Street for a distance of 75 feet."

and directing the Director of Public Works to mark and post the above described location, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Pro  
Tempore Merrill  
Noes: Councilmen: None

Absent: Councilmen: Arata and Mayor Marks

REQUEST TO OPERATE CARNIVAL IN McHENRY VILLAGE ADDITION--WEST COAST SHOWS

A request to operate a carnival in the McHenry Village Addition, filed by the West Coast Shows, during April was referred to the City Clerk to notify the applicant that the annexation proceedings would not be complete by that time and that it would be necessary to file its request with the county.

RESOLUTION PROVIDING FOR REMOVAL OF HOUSE FROM CITY PROPERTY (Lots 3-4 Block 40---1121 8th Street)

The City Manager presented for the Council's consideration a  
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resolution providing for the advertising for bids for the dismantling and removing of the city's house located at 1121 8th Street, lots 3-4 Block 40. Councilman Mellis introduced

RESOLUTION NO. 54-65

seconded by Councilman M. Adams, authorizing the calling for bids for the dismantling and removing of the house at above described location, said bids to be opened at 4:15 P.M., March 17, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Pro  
Tempore Merrill

Noes: Councilmen: None

Absent: Councilmen: Arata and Mayor Marks

PROGRESS REPORT ON SIDEWALK REPAIR

The City Manager summarized a report from the Director of Public Works on the progress being made on "sidewalk repairs", a copy of which is on file in the office of the City Clerk.

REPORT ON GRADE CROSSING PROTECTION SURVEY

The City Manager reported that at a meeting held on February 11, attended by Councilman Annan, officials from the city and the Tidewater Southern Railway Company, and M. E. Getchel of the Public Utilities Commission, railroad grade crossings within the city were discussed. It was agreed that a further check would be made on the Tidewater Southern crossing at Needham Avenue, after the city had made a vehicular traffic count during June or July and a study had been made of the accident records.

The approach onto Ninth Street by the Tidewater Southern tracks in the vicinity of P Street was discussed. It was informally determined that the judgment of the Division of Highways' Traffic Engineer (expressed in his letter of February 9, 1954) that "the magnitude of the problem from a safety standpoint would not warrant the installation of any additional crossing protection devices", should be accepted.

A tour of the M & E. T. Company crossings in the LaLoma area resulted in the decision that no recommendations would be made under the present conditions.

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A letter was addressed to the State Division of Highways in respect to investigation of the possibility of revision of signals at Ninth and B Streets in order to permit right turn movements on red signals when no train is approaching the intersection.

PRELIMINARY REPORT ON PROPOSED RECONSTRUCTION OF DAM IN TUOLUMNE RIVER

A report from Lawrence Adams, Engineer, on the reconstruction of the dam in the Tuolumne River, and estimating the cost at about \$69,000, was briefly discussed by the Council. A copy of the report was assigned to Councilman M. Adams for his study.

The City Manager stated that the report would be further discussed with Mr. Lawrence Adams by city officials and a report submitted to the Council at a later date.

FURTHER REPORT ON POLLS OF NEWLY ANNEXED AREAS FOR SEWER AND LIGHT INSTALLATION

The City Manager reported that the postcard poll returns of the Granger Addition on sewer and light installation showed the following results:

Cards distributed: 229, cards returned 91, 40% return  
 Sewers, yes 60, no 28 ? 3, 66% favoring  
 Lights, yes 49, no 30, ? 12. 62% favoring

Councilman Annan moved, seconded by Councilman Mellis and it was unanimously carried, that the City Manager be instructed to proceed with the preparation of the plans and specifications for both the sewers and lights, in the Granger Addition.

The results of the postcard poll in the LaLoma-Yosemite Addition for the sewer and lights were as follows:

Cards distributed 1,414, returned 497, 35% returned  
 Sewers, yes 344, no 144, ? 9, 70% favoring  
 Lights, yes 246, no 244, ? 7, 50% favoring

A discussion was held on whether the small percentage in favor of lights would warrant the preparation of plans without a further check or whether a further check should be made to determine if the opposition

was confined to a certain congested area in the addition. Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Manager be authorized to proceed with the plans and specifications for sewers in the LaLoma-Yosemite Addition, but that a further check should be made on the lights to determine the matter of distribution of opposition and approval.

Director of Public Works Ray outlined the boundaries to be served by the trunk line to be extended in the LaLoma area which would include all the industrial district presently located outside the city.

The City Manager reported that a visit had recently been made to the City of Hayward to check on its sewer plant. It is proposed to set up a precise testing of the Hayward Plant throughout the coming season to determine its operating efficiency with different loads and to decide optimum operating methods.

#### CITY MANAGER REPORTS ON RECENT CONFERENCE OF CITY MANAGERS

The City Manager reported on the City Managers' Spring meeting held in Santa Monica, February 24-27. He stated that the attendance was increasing each year, and this year the total number in attendance was about 200. This is the first year that the City Managers' Department, which plans and holds the meeting, operated under its new executive committee type of operation. Under this group, in addition to a president, vice president, secretary and directors, there is an executive committee composed of 12 city managers whose selection takes into account the geographical location, size and type of city. The officers and executive committee plan and are responsible for the program at the spring meeting of the department and the program at the League conference in the fall.

A session for new city managers was held February 24, at which time the assistance which they can obtain from the League of California Cities, International City Managers' Association and other sources was explained. Tuesday's sessions were held on work of committees, retirement and fringe benefits, improvement proceedings and finance, and annexation.

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On Friday morning there were breakfasts by different sizes and types of cities, followed by discussions of problems and prospects in municipal management. At noon the tables were arranged by topics selected on the basis of interest expressed by managers. The afternoon session considered the matter of equivalent treatment of fire, police and miscellaneous employees and a review of interim committee activities and legislative problems. The Department Dinner was Friday evening.

The closing Saturday noon session was on Subdivision and Planning. This was a continuation of a session which had been held at the League conference last October and was composed of a City Manager, a City Planner, Senator Breed, Chairman of the Senate Interim Committee on Subdivision and Planning, Eugene Conser, Secretary of the California Real Estate Association, Maurice Read, representing real estate developing and financing interests and D. D. Watson, State Real Estate Commissioner. It was pointed out that "subdivisions are the blocks out of which the city is built". Mr. Watson raised the question, "What should the responsibility of the state be in subdivisions." It was pointed out many times the state has information, such as drainage difficulties, approaches to airports, which are not furnished to the buyer. The City of Sunnyvale shows the approaches to its airport on the city map. The old principle of "letting the buyer beware", versus adequate information regarding the advantages and disadvantages of certain subdivisions, was discussed. The Senate Interim Committee is making a thorough investigation of the laws and practices relating to subdivision plans and development and will propose revisions in the law which it deems advisable.

Mayor Marks pointed out that City Manager Miller was president this year of the City Managers' Department of the League.

REPORT ON REQUIREMENTS OF ORDINANCE NO. 1014-N.S. (SIX YEAR IMPROVEMENT PROGRAM)

The City Manager suggested and the Council concurred, that due to the activities of the Forward Modesto Committee this year, carrying out of the provision of subsection f of section 3 of Ordinance No. 1014-N.S.

which requires that "The Planning Commission shall each year on or before May 1 prepare and submit to the Council a coordinated program of proposed public improvements for the ensuing six year period, together with its recommendations in connection herewith," be deferred for this year. There being no objection it was so ordered.

MAYOR MARKS AUTHORIZED TO WRITE LETTER OF COMMENDATION TO LIBRARIAN CARL HAMILTON

The City Manager reminded the Council that the week of March 8-14 was "Library Week." Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried that the Mayor be authorized to write a letter of commendation to Librarian Carl Hamilton for his excellent work.

REPORT BY CITY ATTORNEY ON ORDINANCES TO BE CONSIDERED AT THE MEETING OF MARCH 10

The City Attorney suggested that the following ordinances, copies of which had been previously distributed to the Council members, be placed on the agenda for the Council meeting of March 10th. Ordinance amending Ordinance No. 487-N.S. establishing license fee to be paid by persons conducting the business of bill posting

Ordinance regulating signs, billboards, etc.

Ordinance prohibiting squatter camps

Ordinance regulating use of streets by vehicles for commercial advertising

Ordinance regulating television antenna installations

Copies of a statement on administration of the Zoning Ordinance, granting of variances, etc. were also distributed to members of the Council by the City Attorney.

FRANK ANDREWS FILE LETTER AND SAMPLE OF PETITION TO BE CIRCULATED

Frank Andrews filed a letter together with a sample copy of petition to Congress which he plans to circulate shortly relating to the request that the appropriation bill for the Cherry Valley project be amended to grant the City of Modesto \$250,000 as its share in this domestic water project. He also discussed the Modesto Bee article reporting on the Modesto Irrigation District gross income for year 1953.

REPORT ON PLANS FOR TRASH PICK-UP

Director of Public Works Ray outlined the plans for the city's trash pick-up program, which called for dividing the city into 5 districts, with a weekly pick-up planned for the entire city. Notices will be distributed to the public as soon as the boundaries of these districts and the rules concerning the service have been determined, giving instructions and the regular day of pick-up service.

The City Manager stated that this matter is back on the active list to be cleared out at the earliest possible time.

RECOMMENDATION THAT WATER USERS BE NOTIFIED NOT TO WASTE WATER

Councilman Mellis recommended that those persons who continually waste water while watering their yards, be notified that they will be penalized if they continue this practice.

CITY ATTORNEY RECALLED TO ACTIVE DUTY IN AIR CORPS FOR 19 DAYS

The City Attorney notified the Council that he had been recalled to active duty in the Air Force for a period of 19 days beginning April 5, 1954.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 6:00 P.M.

  
 ATTEST: REX E. GAILEFUS, CITY CLERK

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March 10, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M. as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. J. W. Watson of the First Southern

Baptist Church.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of February 17 and 24, and the same being available for public inspection, and there being no objections, the minutes were approved.

REQUEST PARK VAN IN BUSINESS DISTRICT FOR REGISTRATION OF VOTERS  
LEAGUE OF WOMEN VOTERS

A request, filed by the League of Women Voters for permission to park a van in the business area for two nights and two days to encourage voters to register, was considered. It was suggested by City Manager Miller that if the request was granted, that the time and place for the parking of the van be arranged by the Police Chief. Councilman Annan moved, seconded by Councilman M. Adams, that the League of Women Voters be granted permission to park a van on the city streets at times and places to be approved by the Chief of Police.

LETTER FROM TIDEWATER SOUTHERN RAILWAY COMPANY RE: EXPIRATION OF FRANCHISE  
TO OPERATE IN THE CITY OF MODESTO

City Attorney Grimes read a letter which he had received from the Tidewater Southern Railway Company expressing willingness to cooperate with the city relative to the expiration of its franchise to operate in the City of Modesto. This letter stated that the company would be in a position to confer with the city in approximately 90 days, after its report had been completed.

It was agreed by the Council that the City Attorney be authorized to advise the company that the Council was willing to allow them a period,

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not to exceed 90 days, to complete the report and to arrange for a conference on the matter.

LETTER FROM LEAGUE OF CALIFORNIA CITIES RE: MEETING OF CITY MANAGERS' DEPARTMENT IN SANTA MONICA

A letter to Mayor Marks from Richard Carpenter, Executive Director of the League of California Cities, complimenting Ross Miller, City Manager, on the manner in which he had presided over the Spring Meeting of the City Managers' Department recently held in Santa Monica, was read and ordered filed.

ORDINANCE REGULATING USE OF STREETS BY VEHICLES FOR COMMERCIAL ADVERTISING

The City Attorney reviewed the background relating to the proposed ordinance regulating use of streets for commercial advertising which was set for consideration of the Council at this meeting. He stated that the proposed ordinance would relax the prohibitive provisions of Ordinance No. 584-N.S.

A letter from Ray Duddy, District Manager of the Modesto Theatres, was read in which he cited an instance where the theatres were refused permission to advertise a picture which had been written by a local man. He requested "that Ordinance No. 584-N.S. should be re-examined in the light of the present day conditions so that it may be rescinded in its entirety."

Mr. Duddy, who was present, distributed pages from various trade magazines illustrating where other cities permitted this method of advertising for shows. He pointed out that the theatres would not do anything to jeopardize its position in the community and would not take advantage of any situation. They would be willing to pay a fee for a permit to use the city streets, he stated. He recommended that these permits be approved by the Chief of Police in order to avoid delay.

The City Attorney stated that the proposed ordinance provided for the granting of permits by the City Manager for "undertakings sponsored by a charitable, benevolent, religious or bona fide incorporated non-profit organizations." All other applications were to be considered by the Council.

After a general discussion it was agreed that the ordinance should remain as prepared by the City Attorney and that it should be the responsibility of the Council to make the decision on the applications whose sponsors did not come under the approved type of organizations. Councilman R. Adams moved the introduction and passage to print of

## ORDINANCE NO. 1111-N.S.

entitled: "AN ORDINANCE REGULATING CERTAIN KINDS OF ADVERTISING UPON THE STREETS AND PUBLIC PLACES OF THE CITY OF MODESTO, DECLARING THE VIOLATION OF THIS ORDINANCE TO BE A MISDEMEANOR AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS THEREOF" which was duly seconded by Councilman Mellis, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

With the permission of the Council, City Manager Miller left the Council meeting at 7:55 P.M. to attend Scout services granting his son, Jerry, life membership in the Boy Scouts.

ADOPTION OF ORDINANCE PROHIBITING SQUATTER CAMPS

The ordinance prepared by the City Attorney prohibiting squatter camps in the city was considered. The City Attorney stated that this ordinance filled the need for the establishment of a procedure whereby the city may effectively eliminate undesirable and sub-standard "squatter" camps in the city. He stated that the City Health Officer had assumed the responsibility of discussing the proposed ordinance with the County Health Officer with a view to the possible adoption by the County of a similar ordinance in the interests of uniformity.

Councilman Merrill arrived at this time (8:00 P.M.).

Councilman Arata moved the introduction and passage to print of  
ORDINANCE NO. 1112-N.S.

entitled: "AN ORDINANCE PROHIBITING SQUATTER CAMPS IN THE CITY OF MODESTO, ESTABLISHING A PROCEDURE FOR THEIR ABATEMENT, AND PRESCRIBING PENALTIES FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE" which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

ADOPTION OF ORDINANCE REGULATING BILLBOARDS AND SIGNS

The Council considered the proposed ordinance regulating signs and billboards in the city which was submitted by the committee composed of Councilmen Dan Mellis, Lyndall Merrill, Clifford Annan and Ralph Spencer, Clarence Blemker, Roy Bylling, Sid Losher, Mel Harris and Dorothy Murray.

A letter from P. Arnold Anderson, Executive Vice-President of the Municipal License Tax Association, was read. Mr. Anderson asked the Council to reconsider two questions of policy in this ordinance:

- 1-Section 22(c) providing that "not more than 50% of the whole area of any one side of a building be used for advertising purposes including painted wall signs"
- 2-Section 7(a) requiring a permit and payment of a permit fee for painted wall signs.

A letter was read from Clarence Blemker, manager of the Coca Cola Bottling Company of Turlock Ltd., requesting that in addition to considering the views expressed by the Municipal License Tax Association that the Council consider increasing the area of signs exempted under Section 12(b) of the ordinance, from 10 square feet to "at least 25 square feet and preferably 50 square feet". He requested that all signs at POINT OF PURCHASE should be exempted from the jurisdiction of the ordinance. These requests, he stated, would decrease the cost of administration and enforcement

The letter of transmittal of the ordinance to the Council from City Attorney Grimes was read. The City Attorney pointed out that Ordinance No. 302-N.S., adopted by the city in December 1926, provided for the payment of fees for painting wall signs and this provision was still in force at the present time.

Mr. Anderson stated that the reason he was presenting the questions to the Council on the policy matter was because he believed that the committee should not have the final say on policy matters but that this should be in the hands of the Council. He pointed out that the vote of the committee members on the question of the percentage of area of any one side of a building to be used for advertising purposes for wall signs had been close. During the absence of certain committee members who had previously gone on record as opposing the decrease in area, he stated a new motion had been adopted at the last meeting of the Committee which changed the wording to

retain the limitation of 50% in all zones. He contended that the Council should not regulate the percentage of space used as long as the safety rules of the ordinance were complied with.

Mayor Marks pointed out that the committee apprised the Council of all the problems discussed during the 23 meetings which had been held. He stated that committees do not write the legislation of the city nor set the policy. The Council sets the policies with as little restrictions as possible, he stated. This ordinance can be amended in the future if it appears that changes should be made.

Councilman Mellis stated that if walls were painted at street levels it would prove a distraction for motorist driving down the street and would cause accidents. He approved the limitation of 50%. The committee, he stated, placed the limitation of 10 square feet before a permit was required for a good reason--to prohibit the "mushrooming" of signs throughout the city. He pointed out that the \$1.00 permit fee required was not excessive.

A general discussion was held on the second question which Mr. Anderson had raised--the requirement of a permit and the payment of a fee for painted wall signs. He contended that this requirement was unsound as the city's cost for the issuance of the permit and the inspection of the signs would exceed the revenue derived. He contended that there was no item of safety involved.

The City Attorney stated that at the committee meetings the Building Inspector had brought up the point that there had been occasions where signs had been painted on walls without the permission of the property owner. By requiring permits, this would be eliminated, the City Attorney stated, and records and maintenance requirements would be accomplished.

Councilman Annan went on record as opposing any changes in the ordinance as submitted to the Council by the Committee. "If there are any errors in the ordinance and the judgment of the committee is wrong", he stated, "amendments can be made at a future date".

Councilman M. Adams expressed the opinion that although there were one or two matters in the ordinance that possibly could be disputed, he was in favor of adopting the ordinance in its present form with the thought that

if amendments were necessary that they could come along as they were raised.

Councilman Annan stated that one of the committee members had advised him that although he had voted favorably with the committee to submit the ordinance to the Council that he would like the records to show that he was opposed to the change of the height limitation of ground signs (section 21 (c)) from 20 feet to 25 feet which was in accordance with the limitation of the other two signs, pole and fin.

Mayor Marks stated that this was also the only point of difference as far as he was concerned, but that he was willing to go along with the ordinance as submitted by the committee.

Councilman Mellis stated that in his opinion the ordinance was very fair and was the best sign ordinance in the State of California. He stated that he would personally like to commend the City Attorney for his work and study on the ordinance.

The City Attorney when asked by A. D. Gordon to interpret section 22 (c) of the ordinance, stated that the provision of this section related to side walls and not front walls as they were regulated by another section of the ordinance.

Clarence Blemker stated that although there had been a few instances where consent of the property owners had not been obtained prior to painting the walls, that a person doing so would be subject to civil suit. He complimented the representatives of the oil industry for their contribution in the preparation of the ordinance, as well as Councilman Annan for his faithful attendance to the meetings held by the committee.

The City Attorney stated that although there were instances of conflict in this ordinance with the existing electrical ordinance, that a total review of the electrical ordinance was planned in the near future.

A letter from L. S. Chappellear, Jr., Secretary, Marketing Ordinance Committee of the Western Oil and Gas Association was read. He stated that

"The courteous reception accorded petroleum industry representatives together with the full and careful consideration given to our industry's recommendations by the members of the Sign and Billboard Committee reflect great credit on them and in turn upon the City Council".

Mr. Harvey, local manager of the Standard Oil Company, stated that Mr. Hinchcliffe of this Association had asked him to convey his commendation of both the Council and the committee.

Councilman Annan moved the introduction and passage to print of  
ORDINANCE NO. 1113-N.S.

entitled: "AN ORDINANCE REGULATING SIGNS, BILLBOARDS, MARQUEES, CANOPIES, AWNINGS AND STREET CLOCKS IN THE CITY OF MODESTO: PROVIDING FOR THE ISSUANCE OF PERMITS AND FIXING THE FEES THEREFOR: PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH" which motion being duly seconded by Councilman Merrill, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Councilman Merrill stated that he wished the record to show that he had seconded the adoption of this ordinance to "speed up the ordinance and that he knew that it was not letter perfect but that as it goes along anything which showed up that needed changing, then the ordinance could be amended".

Mayor Marks expressed appreciation to Dorothy Murray, who was present, for her excellent work in recording the minutes of the committee.

Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Clerk, on behalf of the Council, send letters of commendation and appreciation for the fine job completed to each member of the committee as well as those who had assisted in the preparation of the ordinance.

City Manager Miller returned at 9:00 P.M.

ORDINANCE AMENDING ORDINANCE NO. 487-N.S. ESTABLISH LICENSE FEE FOR PERSONS OPERATING OUTDOOR ADVERTISING BUSINESS

Councilman Mellis moved the introduction and passage to print of  
ORDINANCE NO. 1114-N.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 487-N.S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE PROVIDING FOR LICENSING AND REGULATING THE CARRYING ON OF CERTAIN PROFESSIONS, TRADES, CALLINGS AND OCCUPATIONS IN THE CITY OF MODESTO, PROVIDING THE METHOD OF COLLECTING SUCH LICENSES AND REPEALING CERTAIN ORDINANCES' AS AMENDED BY ADDING SECTION 119.1 THERETO

AND BY AMENDING SECTION 120 THEREOF" which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ORDINANCE AMENDING ORDINANCE NO. 1100-N.S. (PLUMBING ORDINANCE) COST OF PERMIT AND MATERIALS

The City Attorney presented for the Council's approval a proposed ordinance which amended Ordinance No. 1100-N.S. (Plumbing Ordinance) to reduce the cost of permit for house sewer to \$2.50 and permitted the use of vitrified clay sewer pipe for house sewer materials and added section 16.1 relating to use of joints. Councilman M. Adams moved the adoption and passage to print of

ORDINANCE NO. 1115-N.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1100-N.S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE PROVIDING FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, AND THE EXAMINATION, REGISTRATION, LICENSING OF PERSONS ENGAGED IN THE BUSINESS OF PLUMBING, OR LABORING AT THE TRADE OF PLUMBING: REQUIRING A PERMIT FOR THE INSTALLATION OR ALTERATION OF PLUMBING AND DRAINAGE SYSTEMS: CREATING AN ADMINISTRATIVE OFFICE AND A BOARD OF PLUMBER EXAMINERS, AND PRESCRIBING THEIR DUTIES: DEFINING CERTAIN TERMS: ESTABLISHING MINIMUM REGULATIONS FOR THE INSTALLATION, ALTERATION OR REPAIR OF PLUMBING AND DRAINAGE SYSTEMS AND THE INSPECTION THEREOF: PROVIDING PENALTIES FOR ITS VIOLATION AND REPEALING CONFLICTING ORDINANCES IN THE CITY OF MODESTO', AS AMENDED, BY AMENDING SECTION 9 AND SECTION 18 THEREOF AND BY ADDING SECTION 16.1 THERETO ENTITLED 'USE OF JOINTS'", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

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ORDINANCE AMENDING ORDINANCE NO. 700-N.S. (ZONING) AS RELATED TO ZONING RECENTLY ANNEXED TERRITORY

Mayor Marks stated that at his request the City Attorney had prepared an ordinance which would amend Ordinance No. 700-N.S. Zoning Ordinance, to provide for the interim zoning of newly annexed territory. He stated that under this amendment any territory annexed to the city which has not been precisely zoned by the city would be classified in the same land use district prescribed by the county for such territory and in existence at the time of its annexation to the city. The people annexed to the city, he continued, are entitled to the same protection as they would receive under the county zoning ordinance. He urged that immediate action be taken on the ordinance to prevent any undesirable construction in these newly annexed areas.

The City Manager reported that this action had been recommended by the Planning Commission. He pointed out that if this ordinance was adopted at this meeting, since it was an emergency ordinance, it would preclude one use which had previously been before the council--that of the McHenry Nursery. The western position of the location proposed for this construction, the north side of Orangeburg Avenue, just west of McHenry Avenue, by Robert Crabb, would be zoned as R-A and planting operations of the concern would not be permitted unless the proposed ordinance was amended.

Councilman Mellis asked that adoption of the ordinance be delayed in order to give the council members time to study the provisions.

After a general discussion it was agreed that the proposed ordinance should be changed to designate the Crows Landing Industrial District as M-1, industrial, since under the proposed ordinance this territory would be classed as non-conforming and would be changed from industrial to residential. Director of Planning Bills asked and was assured that the proposed ordinance, if adopted by the Council, would be rescinded as soon as the permanent zoning ordinance was adopted.

Mayor Marks moved the adoption and passage to print of

ORDINANCE NO. 1116-N.S.

entitled: "AN ORDINANCE AMENDING THAT PORTION OF SECTION 2 ENTITLED, 'ZONING OF NEWLY ANNEXED TERRITORY' OF ORDINANCE NO. 700-N.S. OF THE CITY

3-24-54  
10

OF MODESTO ENTITLED, "AN ORDINANCE OF THE CITY OF MODESTO, STATE OF CALIFORNIA, ADOPTING A LAND USE PLAN BEING A DISTRICTING PLAN AS A PART OF THE MASTER PLAN OF SAID CITY: SPECIFYING THE PURPOSES AND THE EFFECTS OF THE ADOPTION OF SAID PLAN WHEREBY VARIOUS DISTRICTS ARE ESTABLISHED IN SAID CITY: SPECIFYING THE USES OF LAND AND OF BUILDINGS PERMITTED IN SAID DISTRICTS: ESTABLISHING CERTAIN HEIGHT LIMITS OF BUILDINGS WITHIN SAID DISTRICTS: REQUIRING CERTAIN YARDS AND OTHER OPEN SPACES WITHIN SAID DISTRICTS: PRESCRIBING REGULATIONS FOR THE ERECTION, CONSTRUCTION, LOCATION, ALTERATION AND MAINTENANCE OF BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS IN SAID DISTRICTS: SPECIFYING THE PROCEDURE FOR THE ADMINISTRATION OF SAID PLAN: SPECIFYING THE PROCEDURE FOR THE AMENDMENT HEREOF, AND PRESCRIBING THE PENALTY FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE" AS AMENDED BY ORDINANCE NO. 927-N.S." which motion being duly seconded by Councilman Annan, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Merrill and Mayor Marks

Noes: Councilmen: Mellis

Absent: Councilmen: None

A letter from the City Planning Commission urging the adoption of an emergency ordinance which would "have the effect of stabilizing zoning regulations in the newly annexed areas," was considered and ordered filed.

ORDINANCE REPEALING ORDINANCE NO. 1108-N.S. ANNEXING MCHENRY VILLAGE ADDITION

The City Manager recommended that since an error had been made in the description of the McHenry Village Addition boundaries that the ordinance approving the annexation be rescinded. Councilman Annan moved the adoption and passage to print

ORDINANCE NO. 1117-N.S.

entitled: "AN ORDINANCE REPEALING ORDINANCE NO. 1108-N.S. of the CITY OF MODESTO ENTITLED 'AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE MCHENRY VILLAGE ADDITION TO THE CITY OF MODESTO'", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

3-24-54

Noes: Councilmen: None

Absent: Councilmen: None

DISCUSS ZONING ON PROPERTY PURCHASED BY ROBERT A. CRABB FOR NURSERY

Mr. Phil Humphreys, representing Robert A. Crabb operating the McHenry Nursery, stated that Mr. Crabb had purchased the property on Orangeburg, with the understanding that under the application of the existing interim zoning ordinance that it would be a safe procedure for him to invest his money in the property which he planned to use as a nursery. The deal, he stated, was first arranged that it would be contingent upon the fact that the property could be used for nursery purposes. After information had been obtained from the best possible city administrative sources, that the uses permitted would include the operation of a nursery, the money had been paid by Mr. Crabb to the seller and the deal closed. He contended that Mr. Crabb should have an opportunity to present his side of the matter.

Mayor Marks reminded Mr. Humphreys that at the previous meeting when Mr. Crabb had been present and outlined his proposed plans for the development of the property that he had been warned of the possibility that this property could not be used for these purposes. Mr. Humphreys pointed out that the deal had been consummated prior to that meeting. It was the suggestion of the City Manager, he stated, that the plans for the property be presented to the Council for its interpretation of the uses permitted under R-A.

City Attorney Grimes pointed out that there was serious doubt whether nurseries would be permitted under R-A, as planting area proposed was not legally a green house, one of the uses permitted under R-A. He pointed out that the only way to clarify this situation would be for Mr. Crabb to request the Council to set a date for a public hearing on the proposed amending of the interim zoning ordinance to zone the property as C-1, commercial.

Mr. Humphreys pointed out that both he and Mr. Crabb recognized the necessity for protection of the newly annexed desirable residential area,

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but that the only point he was making was that under the circumstances Mr. Crabb had acted on the best available advice that he could get at the time he invested his money in the land for the specific purpose of using the property for a nursery.

Councilman R. Adams stated that it would appear that the best possible solution to this problem would be to request rezoning of the commercial area on McHenry Avenue at this location to a greater depth. The Council could act with intelligence and justice when the request was presented by Mr. Crabb, he stated.

ACCEPT CONTRACT FOR PUMP HOUSE AT PUMP STATION NO. 16 FROM JESSE E. WAGONER

A report by the Director of Public Works that Jesse E. Wagoner, contractor, had completed the construction of pump house at pump station No. 16 in accordance with the terms of the contract and to his satisfaction was presented by the City Manager. He recommended that the work be accepted, Notice of Completion be filed with the County Recorder and that progress payment of \$1,032.88 be authorized. Councilman Mellis introduced

RESOLUTION NO. 54-72

seconded by Councilman M. Adams, accepting the contract as completed by Jesse E. Wagoner, authorizing the recording of Notice of Completion with the County Recorder, and progress payment of \$1,032.88, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RELEASE OF SUBDIVISION BOND FILED BY JOHN QUARESMA-COLLEGE CENTER TRACT

Upon presentation by the City Manager of the recommendations of the Director of Public Works, Councilman M. Adams introduced

RESOLUTION NO. 54-73A

seconded by Councilman Arata, that the subdivision bond in the sum of \$25,000 filed by John Quaresma, to guarantee the construction of improvements in the College Center Tract, be released as the improvements have been constructed to the satisfaction of the Director of Public Works, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

REPORT ON OFFER OF BROWN MOTOR COMPANY TO SELL ITS PROPERTY ON TENTH STREET TO THE CITY

Councilman Mellis reported that as requested by the Mayor, Councilman R. Adams and he had inspected the property, adjoining the Police Department building, which the Brown Motor Company had offered to sell to the city. He stated that the conclusion arrived at was that this property would not serve the interests of the city in the future over-all plans. Councilman R. Adams moved, seconded by Councilman Merrill and it was unanimously carried, that the City Clerk be instructed to notify Mr. Brown that the city was not interested in purchasing the property.

REPORT ON REQUEST OF TWELFTH NAVAL DISTRICT--FOR ADDITIONAL LAND AT AIRPORT

Councilman R. Adams reported that as requested by the Mayor, he had investigated the request of the Twelfth Naval District for an additional three acre site adjoining its present facilities at the airport for the building of increased facilities. Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried that the City Manager be authorized to advise the Twelfth Naval District that the city is willing to consider the allocation of additional land extending 160 feet southward for its proposed new facilities.

SUGGESTION THAT COUNCIL CHAMBERS BE TEMPORARILY ESTABLISHED AT McHENRY LIBRARY

Since there is such an urgent need for additional office space in the City Hall, the City Manager suggested that consideration be given to the possibility of using the basement of the McHenry Library as temporary Council Chambers. It was agreed that the Council should inspect the premises at the library with this thought in mind.

CITY PLANNING COMMISSION PRESENT NEW ZONING ORDINANCE TO COUNCIL

A letter transmitting the proposed new zoning ordinance to the Council for its consideration from the City Planning Commission was read. The letter stated that the commission "recognized that there undoubtedly would be both minor and major points in the proposed ordinance which the

members of the Council will want to explore to the fullest before the measure is ready for adoption. The full energies of the commission and staff are pledged to assist the Council."

The City Attorney stated that "this document is the most important document ever considered by the Council". He recommended that the fullest possible publicity be given to the hearing which would be held by the Council. He stated that it would be necessary that a legal notice be published in the official newspaper and suggested that display ads in all other papers be used, advising the public when and where the hearing will be held and that copies of the proposed ordinance will be available in the office of the City Clerk. He recommended that the earliest possible time be set by the Council for the hearing and suggested that 8:00 P.M., March 24th, be set by the Council at this time. There should be a great deal of interest by the public, he stated since the majority of the citizens of the city will be affected by the provisions of this ordinance, as to how their own property can be used. He suggested that the mayor could limit the time for the discussion and then the hearing could be continued at a later meeting. This hearing, he stated, should be continued from week to week until all the questions have been satisfactorily resolved. He suggested that the ordinance should not be adopted until the land use map was available and that both the map and ordinance be adopted at the same time.

The City Manager stated "I have never in my experience seen an agenda which represented more hours of citizen participation in city government than this one. This is the finest kind of participation and I would like to commend the citizens of the city for their interest".

Clifford Plummer, Engineer of the Modesto Irrigation District, stated that he would confer with Attorney Grimes on several changes which he would like included in the ordinance, prior to the public hearing. He commended the Council on their thought for publicizing the hearings as this would "save yourself some headaches later one".

Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the City Clerk be directed to publish a legal

notice in the official newspaper of the City and to publish display ads in the other city newspapers, that the public hearing would be held on the proposed new zoning ordinance at 8:00 P.M., March 24, 1954, in the Council Chambers and that copies of the proposed ordinance would be available in the office of the City Clerk.

ACCEPT DEED AND AUTHORIZE RECORDING FROM MAY F. WHITMORE AND CHESTER F. WHITMORE

The City Attorney presented for the consideration of the Council a deed dated Nov. 12, 1953, from May F. Whitmore and Chester F. Whitmore covering a portion of lot 9 of the Fresno Tract (widening of Briggsmore Avenue).

Councilman R. Adams introduced

RESOLUTION NO. 54-70

seconded by Councilman Mellis, accepting the deed from said parties and authorizing the City Clerk to record said deed with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

- Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks
- Noes: Councilmen: None
- Absent: Councilmen: None

ACCEPT DEEDS FROM CERTAIN INDIVIDUALS ON PROPERTY TO BE USED IN WIDENING ANNABELL AVENUE

Deeds from Edwin and May Swan Burt; Clara J. Burke and Henry A and Janet Grube covering land in Block 635 to widen Annabell Avenue were presented for Council consideration by the City Attorney. Councilman M. Adams introduced

RESOLUTION NO. 54-71

seconded by Councilman Annan accepting the deeds and authorizing their recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

- Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks
- Noes: Councilmen: None
- Absent: Councilmen: None

HOLD OVER CONSIDERATION OF ACCEPTANCE OF MAP OF PORTION OF TATUM TRACT

Consideration of approval of subdivision map of a portion of the Tatum Tract was held over for investigation by the City Attorney.

APPROVE RECORD OF SURVEY OF PORTION LOT 2 OF FRESNO TRACT (NORTH OF JUDITH LANE) OF PHILIP E. HUMPHREYS ET AL

The City Attorney presented for Council consideration an agreement between Philip E. and Helen M. Humphreys and Charles E. and Hortense B. Hayes and the city, providing for the approval of a map of survey of a portion of lot 2 of the Fresno Tract (North of Judith Lane) after certain conditions had been complied with.

Councilman Annan introduced

## RESOLUTION NO. 54-69

seconded by Councilman Arata, approving the record of survey of a portion of lot 2 of the Fresno Tract in section 17, township 3 South, Range 9 East, MDB & M located north of Judith Lane in the City of Modesto and accepting the streets and alleys and easements as shown thereon on behalf of the public for public use, authorizing the City Clerk to certify the map on behalf of the city after the fees in the amount of \$175.10 have been paid and bond in the amount of \$2800 has been furnished, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

CITY MANAGER REPORT ON PROPOSED BUILDING OF SHOP BUILDING AT AIRPORT

The City Manager, as requested by the Council, reported on the proposed building of an additional building at the airport to be leased to Sam Jones for the operation of a Beechcraft service station. He asked that the Council approve in principle a plan offered by Coddling Homes to build this building 60' x 60', at a maximum cost of \$12,000 and that the details involved would be worked out and presented for Council approval at a later date. The company's proposal, he stated, was for the city to deed that portion of the airport needed for this building to Coddling Homes so that a loan could be secured to finance the building. The building upon

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completion would be leased to the city by Coddling Homes for a period of 20 years, at which time both the land and building would revert to the city. The city could then sublease the building at a monthly rental of \$100 to Mr. Jones.

Bob Bomberger suggested that in order to protect the city's interest the lease should be recorded before the mortgage. He also suggested that if bids were called for on the building that it would meet with more favor from the general public. He conceded that the maximum price of \$12,000 quoted by Coddling Homes was low.

A discussion was held on the advance payment of rent to be required from Mr. Jones. Councilman Mellis moved, seconded by Councilman M. Adams and carried that the plan for the building be approved in principle and that the city require a payment of \$700 in advance from Mr. Jones, \$100 to be considered as the first month's rental and the balance of \$600 for the last six months' rental of a three year lease.

APPROVE APPROPRIATION TRANSFER FROM RESERVE TO PUBLIC WORKS ENGINEERING FOR PROFESSIONAL SERVICE

Upon the recommendation of the City Manager, Councilman R. Adams introduced

RESOLUTION NO. 54-73

seconded by Councilman M. Adams, approving appropriation transfer of \$1500 from "reserve for Dennett Dam" (General Fund) to the Public Works, Engineering Dept., operating expense professional service to pay for engineer's survey and report on proposed Dennett dam, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DISCUSSION ON BASIC POLICY FOR EMPLOYMENT OF CITY PERSONNEL

The City Manager presented, for the Council's consideration, page 1 of the proposed personnel rules, now being prepared by Louis J. Kroeger & Associates under contract to the city. It is desirable that the basic personnel plan meet with the Council's approval, he stated. This plan

has already been discussed at joint meetings of the Personnel Commission and the City Employee's Civil Service Committee. Section 1.2 subsection (a) entitled INTENT provides that

"The City Council and all citizens of the City of Modesto have the right to expect; that the City will employ for each position to be filled the best qualified person reasonably available, with preference being given to candidates who are citizens of Modesto, qualifications being equal; that the tenure of every city employee will be based upon demonstrated need for the work performed, availability of funds, faithful effective performance, proper personal conduct, and continuing fitness for his position; that each employee will be encouraged, trained, and developed to assure optimum performance".

The City Manager stated that he had added the words "with preference being given to candidates who are citizens of Modesto, qualifications being equal". He stated that "this has been our policy and will continue to be our policy".

Ben Kimber, present at the meeting, asked for an explanation of the wording, "qualifications being equal". He stated that these qualifications were written by experts and the jobs could only be filled by a person with college training.

Mayor Marks pointed out that the city had never had any difficulty in receiving applications for the various jobs offered. "Yes", Mr. Kimber replied, "always from out of town too".

Councilman R. Adams asked Mr. Miller, "We have hired a number of people in the last few years; have we not always tried to fill these positions locally?"

The City Manager stated that "We have always tried to fill the jobs locally". He stated that he welcomed this discussion and that "if people wanted to get the facts about this government the place to get them is here. The City's business is done in public." He outlined the procedure followed in filling the four key positions--Police Chief, Finance Director, Director of Public Works and Planning Director. He stated that advertisements were run in professional journals, and that organizations relating to the special job were asked to aid in securing applications. He cited several instances where the jobs had been offered to local men who had refused to consider them because they were receiving more pay where they were presently employed or they had been elected to the position and

wished to continue on in their present office. He stated that he would like to have the records show that the position of Police Chief had been offered to Sheriff Dan Kelsey, who had turned it down because he had been elected to his position by the people of the county. The City Manager pointed out that the people who were criticizing the appointment of personnel from out of town never mention the local people in the city employ who had been advanced to key positions with the city.

Mayor Marks outlined the procedure employed in hiring the City Attorney and City Manager, who he stated, never even applied for the position. It was the Council's intention, he stated, to "get the best man in the United States for the job of City Manager and we got the man we were looking for".

Councilman M. Adams expressed commendation of the action taken by the City Manager in his policy of selecting personnel.

Mayor Marks cited an example of "rumor" which had no basis--the cost of creating a portion of G Street as an arterial street. This, he stated, was done at a cost of approximately \$1.10, the price of a luncheon paid for by the City Manager for the Traffic Engineer of the City of Sacramento, and not at a cost of \$900 as was rumored. "Mr. Faustman, the Traffic Engineer, a personal friend of ours, came down and went over the data which we had gathered", the Mayor stated and presented to the Council for its decision. Councilman M. Adams moved, seconded by Councilman Mellis and it was unanimously carried, that the policy as outlined in Section 1.2, subsection (a) of the Personnel Rules will be the personnel policy of the City of Modesto.

Ben Kimber complimented the City Manager on his program for getting the facts to the citizens of the city on his radio program. He pointed out that when the facts are known there will be no misunderstanding.

The City Manager asked the press to publicize the pending budget hearings and he issued an invitation to all the citizens to be present at these hearings.

#### REPORT BY CITY MANAGER ON PROPOSED DOWN TOWN LIGHTING DISTRICT

The City Manager reported that the city was working with the Chamber

of Commerce on the proposed down-town lighting district. It has been agreed to confine the area to approximately one or two streets. A more detailed report will be submitted to the Council soon.

FRANK ANDREWS FILE LETTER RE: PROPOSED PLAN TO BRING MOUNTAIN WATER TO MODESTO

Frank Andrews filed a letter regarding his plan to bring mountain-Sierra water to Modesto for domestic and industrial uses.

PROGRESS REPORT ON SPECIAL CENSUS FOR CITY OF MODESTO

The City Manager stated that payment to the city by the State of California for gas tax was based on the ratio of three to one and that in the newly annexed area, it was not at all sure that a special census would show a sufficient increase in population to offset the cost of a special census.

A discussion was held on whether the figures determined in a special census would be used by the government as the population of Modesto. It was agreed that a further check on this matter should be made by the City Manager.

LETTER FROM STANISLAUS COUNTY PLANNING COMMISSION RE: PARK PLAN

A letter together with a copy of a report entitled "A Plan for Parks" from the Stanislaus County Planning Commission was considered. The City Manager stated that copies of the report would be distributed to the Council members for their study.

CITY MANAGER INTRODUCES SON JERRY TO COUNCIL

City Manager Miller presented to the Council his son, Jerry, who had just reached his 14th birthday, and who had this evening received his "Life Scout Award".

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously carried, that the meeting now in session adjourn. The Council meeting was adjourned at 12:45 P.M.

ATTEST:  REX E. GAILFUS, CITY CLERK

March 17, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P. M. as provided by Ordinance No. 1084-N. S.

The Acting City Clerk called the roll of the Council and there were:

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Absent: Councilmen: None

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

Invocation was given by Rev. Dodds B. Bunch of the Centenary Methodist Church.

LETTER FROM ROBERT A. CRABB REQUESTING PUBLIC HEARING ON USE OF PROPERTY ON ORANGEBURG FOR NURSERY PURPOSES

A letter from Robert A. Crabb was read, requesting that a date be set for a public hearing on his request for an amendment to Ordinance No. 1116-N. S. relating to the interim zoning of newly annexed territory, in so far as it applies to developing of a nursery in the area bounded by Orangeburg, Florida and Claradell Avenues, lying west of McHenry Avenue. Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried, that 8:00 P. M., March 24, 1954, in the Council Chambers, be set as the time and place for the hearing of protests to the proposed amending of Ordinance No. 1116-N. S. to zone the above described property belonging to Robert A. Crabb as C-1 Commercial.

LETTER FROM CITY OF MERCED RE: MEETING OF CENTRAL VALLEY LEAGUE

A letter from the City of Merced reminding the Council that the next meeting of the Central Valley Division of the League of California Cities will be held in Merced on April 22, was read and ordered filed.

LETTER FROM STATE DIVISION OF HIGHWAYS RE: "SCHOOL CROSSING PROTECTION-SIGNS, ETC."

A letter with an attached copy of a booklet titled, "School Crossing Protection-Signs, Signals and Devices", from the State Department of Public Works, Division of Highways was ordered referred to the Police Department and the Traffic Engineer who will be hired by the City shortly.

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LETTER FROM MODESTO BOARD OF REALTORS, INC. RE: APPRECIATION FOR REDUCING FIRE RATES IN THE CITY

A letter from the Modesto Board of Realtors, Inc. was read, in which the Board expressed its appreciation to the Council "that through your cooperation with the fire department many fire hazards were eliminated, thereby reducing fire rates in the City of Modesto." Appreciation of the cooperation of Fire Chief Wemyss with civic groups was also expressed.

REQUEST OF MODESTO MINISTERIAL ASSOCIATION TO USE MANCINI BOWL FOR EASTER SERVICES

A request filed by the Modesto Ministerial Association to use the Mancini Bowl for the annual inter-denominational Easter Sunrise Service, was considered. Councilman Annan introduced

RESOLUTION NO. 54-75

seconded by Councilman R. Adams, granting permission to the Modesto Ministerial Association to use the Mancini Bowl on April 18, at 5:30 A. M. for the annual inter-denominational Easter Sunrise Service, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

LETTER FROM CODDING CONSTRUCTION COMPANY RE: INDUSTRIAL SITE

A letter from Hugh B. Coddling, President of the Coddling Construction Company, was read, a copy of which is on file in the office of the City Clerk. Mr. Coddling advised that the company had available a 40 acre industrially zoned site on the north side of Whitmore Avenue adjacent to the Western Pacific Railroad (Tidewater Southern) and its industrial tract. The letter authorized the Council "to transmit various offers to any responsible industrial concern for the construction of commercial buildings." "The offer," the letter stated, "was for the purpose to expedite efforts to obtain industry for Modesto and thereby create more year around payrolls and to add to the stability of the community."

Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager send a letter of appreciation

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on behalf of the Council, to Mr. Coddington for his company's offer.

TELEGRAMS FROM SENATOR KUCHEL AND CONGRESSMAN LEROY JOHNSON RELATING TO  
REDUCTION OF PERSONNEL AT RIVERBANK ORDNANCE PLANT

Telegrams from Senator Thomas H. Kuchel, and Congressman LeRoy Johnson, regarding the plans for the reduction of personnel at the Riverbank Ordnance Plant due to the reduction in production of 105 MM cases, were read and ordered filed.

CONSIDER BIDS ON DEMOLISHING CITY HOUSE AT 1121 8th STREET

Mayor Marks declared the meeting open for the consideration of the bids for the demolishing of the city house at 1121 8th Street. The Acting City Clerk reported receipt of one written bid from Joseph D. Ballinger & Co., which was opened and declared to be an offer of \$350 to be paid to the company by the city for the demolition work. Mayor Marks called for oral bids from the audience and one bid was received from A. F. Dishong for an amount of \$30 to be paid the city. Mayor Marks declared the consideration of the bids closed. Councilman Mellis introduced

RESOLUTION NO. 54-76

seconded by Councilman Arata, accepting the bid of A. F. Dishong of \$30.00 for the demolishing of the building on the condition that the work be completed by April 15, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

GRANT PERMIT TO ED TAYLOR TO REMOVE TREES IN FRONT OF 1010 12th STREET

A request filed by William C. Carson and Edward T. Taylor to remove two trees, one in front of 1010 12th Street and the other approximately on the line between 1010 and 1014 12th Street, as they restrict the use of their properties at this location, was considered. Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried that the request be granted on the provision that the trees be removed at the expense of the petitioners.

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REQUEST OF MODESTO REDS BASEBALL CLUB TO ADVERTISE "PLAY BALL NIGHT" ON CITY STREETS

A request of the Modesto Reds Baseball Club "to operate a mobile advertisement on the city streets to promote attendance to a benefit baseball game to be held on May 6th," was considered by the Council. Councilman R. Adams moved, seconded by Councilman Merrill, and it was unanimously carried, that the Council indicate its approval of the request and refer the matter to the City Manager and the Police Chief to complete arrangements.

LETTER AND RESOLUTION FROM TRAFFIC SAFETY COMMITTEE OF THE MODESTO BOARD OF REALTORS, INC.

A letter enclosing a copy of a resolution adopted by the Modesto Board of Realtors relating to a recommendation for the use in Modesto of the open view cross-walk system, which would serve to expedite heavy downtown traffic, both automobile and pedestrian, was read. At the suggestion of the City Manager, the communication was ordered referred to the new Traffic Engineer upon his arrival.

LETTER FROM OFFICE OF CIVIL DEFENSE RE: OVER-ALL DISPERSION PLAN

A letter from the State Office of Civil Defense relating to the feasibility and practicability of formulating an over-all dispersion policy for this area, was read. The City Manager suggested, to which the Council concurred, that since the City of Stockton was sponsoring the program, that the City of Modesto cooperate with them.

APPROVE PLANS AND SPECIFICATIONS AND AGREEMENT, AUTHORIZE CALL FOR BIDS ON CONSTRUCTION OF BUILDING AT AIRPORT

The City Manager suggested that because of questions raised in the proceedings proposed for the construction of a shop building to be leased by the city to a private individual, that the city call for bids. The City Attorney outlined the terms of a proposed agreement to be executed by the successful bidder. The City Manager pointed out that the plans and specifications called for additional items which would probably increase the maximum amount of \$12,000 previously quoted by the Coddin Construction Company. Councilman Mellis introduced

RESOLUTION NO. 54-78

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seconded by Councilman Arata, approving the plans, specifications, and agreement form and authorizing the City Clerk to call for bids for the construction and lease of a building at the Municipal Airport to be used for shop purposes, said bids to be opened at 2:00 P. M., March 29, 1954, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None

Absent: Councilmen: None

FINAL ADOPTION ORDINANCE NO. 1111-N. S. REGULATING VEHICULAR ADVERTISING

Ordinance No. 1111-N. S. entitled: "AN ORDINANCE REGULATING CERTAIN KINDS OF ADVERTISING UPON THE STREETS AND PUBLIC PLACES OF THE CITY OF MODESTO, DECLARING THE VIOLATION OF THIS ORDINANCE TO BE A MISDEMEANOR AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS THEREOF," having been heretofore introduced and ordered printed and published at the regular meeting of March 10, 1954, Councilman R. Adams moved, seconded by Councilman M. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None

Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1112-N. S. PROHIBITING SQUATTER CAMPS

Ordinance No. 1112-N. S. entitled: "AN ORDINANCE PROHIBITING SQUATTER CAMPS IN THE CITY OF MODESTO, ESTABLISHING A PROCEDURE FOR THEIR ABATEMENT, AND PRESCRIBING PENALTIES FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE", having been heretofore introduced and ordered printed and published at the regular meeting of March 10, 1954, Councilman Arata moved, seconded by Councilman M. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None

Absent: Councilmen: None

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FINAL ADOPTION OF ORDINANCE NO. 1113-N. S. REGULATE BILLBOARDS AND SIGNS

Ordinance No. 1113-N. S. entitled: "AN ORDINANCE REGULATING SIGNS, BILLBOARDS, MARQUEES, CANOPIES, AWNINGS AND STREET CLOCKS IN THE CITY OF MODESTO: PROVIDING FOR THE ISSUANCE OF PERMITS AND FIXING THE FEES THEREFOR: PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH", having been heretofore introduced and ordered printed and published at the regular meeting of March 10, 1954, Councilman Merrill moved, seconded by Councilman M. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1114-N. S. BUSINESS LICENSE FEE FOR OUTDOOR ADVERTISING

Ordinance No. 1114-N. S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 487-N. S. (BUSINESS LICENSE) AS AMENDED BY ADDING SECTION 119.1 THERETO AND BY AMENDING SECTION 120 THEREOF", having been heretofore introduced and ordered printed and published at the regular meeting of March 10, 1954, Councilman Merrill moved, seconded by Councilman M. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1115-N. S. AMEND PLUMBING ORDINANCE

Ordinance No. 1115-N. S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1100-N. S. OF THE CITY OF MODESTO ENTITLED (PLUMBING ORDINANCE) AS AMENDED BY AMENDING SECTION 9 AND SECTION 18 THEREOF AND BY ADDING SECTION 16.1 THERETO ENTITLED 'USE OF JOINTS'", having been heretofore introduced and ordered printed and published at the regular meeting of March 10, 1954, Councilman M. Adams moved, seconded by Councilman R. Adams, that the ordinance

be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE AGREEMENT WITH JOE MINENI & RETHA FUKUI FOR WATER AND SEWER SERVICE

Terms of an agreement prepared by the City Attorney between the city and Joe Mineni, Jr. and Retha Fukui, for the furnishing of sewer and water service to a tract of land outside the city, located on Sutter Avenue, were discussed.

Mr. Mineni took exception to the wording in section 5 "Subdivider agrees to proceed with due diligence with the construction of all homes to be built on the tract". It is planned, he stated, to build all the houses in the tract, but if they were unable to sell the houses, that their plans would be subject to change. He also took exception to the wording of section 9 "all of the obligations imposed upon the respective parties hereto by the terms of this agreement, except as otherwise provided herein, shall be performed, insofar as possible, within 18 months from the date hereof."

The City Attorney pointed out that this provision did not relate to the building of houses, but to the other stipulations, such as annexation to the city, using of city water, sidewalk construction, street lights, planting of trees, payment of park fee, etc.

Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried that the wording in section 5 "Subdivider agrees to proceed with due diligence with the construction of all homes to be built on the tract," be deleted.

Councilman Mellis introduced

RESOLUTION NO. 54-74

seconded by Councilman M. Adams, approving the agreement as amended and authorizing execution by authorized officials, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
 Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

The City Manager reported that investigations would be made whether the tract of land, which is contiguous to the city, located north of the Mineni-Pukui tract, would be agreeable to annex to the city.

SET DATE FOR "YOUTH IN GOVERNMENT DAY"

Al Volz and Tom Harris, representing the Kiwanis Club, reported that the date of May 5 had tentatively been set for the "Youth in Government Day". Mr. Volz stated that the clubs had agreed to pay the cost of the luncheon for the Key Clubbers and the city employees involved. Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the date of May 5 be set as the "Youth in Government Day".

REPORT OF COUNCIL COMMITTEE ON USE OF OLD JOHN MUIR SCHOOL BUILDING

Councilman Mellis, Chairman of the Council Committee to investigate the use of the old John Muir School building for use as a city hall, filed a report, a copy of which is on file in the office of the City Clerk, of the committee's findings and recommendations, which was read in full by Mayor Marks.

Mayor Marks stated that this was the most intelligent report in his experience ever submitted by a Council Committee and suggested that the Council accept the report as submitted before it was turned over to the Forward Modesto Committee. The City Attorney pointed out that the recommendations of the Council Committee included the following recommendation: Item 11, "That before final action is taken on any of the recommendations they first be considered with the Forward Modesto Committee, which has been asked to make recommendations on this subject, and the Planning Commission and the Parking Authority".

A discussion was held on whether item 12 of the recommendations in the report relating to the transfer of the meeting place of the Council from the City Hall to the McHenry Library, be referred to these bodies for consideration or whether the Council should decide on this action.

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Councilman R. Adams pointed out that at the earliest possible time it would be at least 1 1/2 years before a new City Hall would be completed and that the need for additional space was so urgent that the Council Chambers should be made available for offices.

Councilman Mellis suggested that the report be accepted and forwarded to the recommended bodies for their consideration and that the decision, to be made as recommended under item 12, would not be tied in with the building of a new city hall.

In reply to a question by Mayor Marks as to whether or not the present Council space could be utilized in the city's operations, the City Manager replied, "Yes, it could be used profitably." He referred to a report which he submitted to the Council showing that 1300 applicants for city positions had been personally interviewed by the personnel office in the past 12 months. The personnel office, including two employees and all the files, is housed in a space approximately nine feet by ten feet, he stated.

Mayor Marks moved, seconded by Councilman Arata, and it was unanimously carried, that the report be accepted and that the Council express its deep gratitude to the Committee for the patience and foresightedness in coming forward with these recommendations, and that copies of the report be forwarded to the Forward Modesto Committee, the Planning Commission, and the Parking Authority for their consideration before any action is taken by the Council.

CONSIDERATION OF ORDINANCE REGULATING COLLECTION OF GARDEN REFUSE HELD OVER

Consideration of ordinance regulating collection of garden refuse was held over until a later meeting.

APPROVAL OF MAP OF PORTION OF TATUM TRACT SUBDIVISION

Councilman Arata introduced

RESOLUTION NO. 54-79

seconded by Councilman M. Adams, approving the record of survey of a portion of lots 14 and 15 of the Tatum Tract, Section 21, Township 3 South, Range 9 East, M. D. B. & M., authorizing the City Clerk to certify said survey map of said subdivision on behalf of the city after fees in the amount of \$5.00

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for the recording of said map have been paid, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

SET NEW DATE FOR FORMAL HEARING ON PROPOSED NEW ZONING ORDINANCE

The City Manager reported that due to failure of having the notice of the formal hearing on the proposed new zoning ordinance published in the official newspaper 10 days prior to March 24, that it would be necessary for the Council to reestablish the time for this hearing. It was agreed that informal discussion of the proposed ordinance would be held at the meeting of March 24, 1954, as originally planned. Councilman Mellis moved, seconded by Councilman Merrill that 4:30 P. M., April 7, in the Council Chambers be set as the time and place for the formal hearing on the proposed new zoning ordinance.

APPROVE UTILITY EASEMENT AGREEMENT WITH F. STRANGIO ET UX

The City Attorney presented for the Council's consideration Utility Easement Agreement with Fred Strangio and Josephine Strangio which provided for the payment of \$400 and covered a portion of lots 14-16 inc. of Rio Vista Colony. Councilman Merrill introduced

RESOLUTION NO. 54-77

seconded by Councilman R. Adams, approving the Utility Easement Agreement between the city and Fred and Josephine Strangio and authorizing the Director of Finance to draw a warrant in the amount of \$400, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REQUEST OF E. S. WILBOURN FOR SEWER SERVICE TO PROPOSED SHOPPING CENTER AT ORANGEBURG AVENUE AND COFFEE ROAD

The City Manager reported that E. S. Wilbourn had requested sewage facilities for a proposed shopping center at Orangeburg Avenue and Coffee

Road, and had indicated his willingness to annex to the city whenever it was legally possible to do so. It may not be logical to furnish all city services to this area at this time, the City Manager stated. He suggested that the city enter into the usual agreement with Mr. Wilbourn for this service and when it is economically feasible to furnish other city services to this area that it, together with other areas which have indicated willingness to annex, be annexed at one time.

A discussion was held by the Council on whether the income derived by the city would warrant the cost of installing the trunk line extension at this time, since it would be a year or so before annexation could be considered. Director of Public Works Ray estimated the approximate cost of the section of the proposed sewer line which would serve the area including the shopping center to be approximately \$20,000.

The City Manager pointed out that the trunk line to serve this area was part of the over-all sewer plan, and that it would serve all the area in that section which would ultimately be annexed to the city. Whether this shopping is constructed with or without sewers, is really the question to be considered at this time, he stated. This extension should be included in the plans and specifications now being prepared by the Public Works Department for the LaLoma trunk sewer.

Councilman Annan pointed out that this shopping center would be in competition with stores in the city which were paying city sales tax.

Councilman R. Adams pointed out the advantages and savings to the city by including this trunk line extension in the plans and specifications and bid call for the main east side trunk line. He stated that whenever a trunk line is located near an area that automatically that area will annex to the city.

Councilman R. Adams moved, seconded by Councilman M. Adams, and Mayor Marks declared the motion carried, that in line with the Council's established policy that Mr. Wilbourn be granted sewer service and that an agreement be prepared by the City Attorney.

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CONSIDER APPLICATION OF MODESTO TRANSIT COMPANY TO THE PUBLIC UTILITIES COMMISSION FOR INCREASE IN FARES AND DISCONTINUANCE OF SUNDAYS AND HOLIDAYS SERVICE

A letter from the Modesto Transit Company, together with a copy of an application to the State Public Utilities Commission requesting permission to increase its fares from 12¢ to 15¢ and to discontinue service on Sundays and Holidays, was considered by the Council.

The company requested that the City of Modesto advise the State Public Utilities Commission that

- 1-If the facts and operating results indicate a fare increase is necessary and justified the City of Modesto has no objection to such application.
- 2-That if the State Public Utilities Commission decides that the facts and operating results indicate a public hearing is not necessary in order to save time and provide the Company with relief as soon as possible, the City of Modesto has no objection and supports the application of the Company.

The City Attorney pointed out that the Commission had the right to waive the hearing and that it would not be necessary to consider item 2, as outlined above.

Mayor Marks moved, seconded by Councilman Mellis, and it was unanimously carried, that if the facts and operating results as determined by the Public Utilities Commission indicate a fare increase is necessary and justified, and service warrants modification, the City of Modesto has no objections to the application of the said Modesto Transit Company nor to the request for discontinuance of service on Sundays and holidays.

MAPS ON REROUTING OF NINETY NINE HIGHWAY

Copies of the map showing the three routes proposed by the State for consideration in the rerouting of the 99 Highway shown to the Council by the City Manager and were filed with the City Clerk.

CONSIDER CLARIFICATION FOR RULE RELATING TO VACATIONS AND HOLIDAYS FOR CITY EMPLOYEES

Assistant City Manager Shelton presented copies of the proposed holidays and vacations for city employees for study by the Council. He stated that due to lack of uniformity and confusion and since vacations will soon be starting, that it was desirable to clear this portion of the rules and regulations as soon as possible.

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FINANCIAL REPORT OF CITY FOR PERIOD ENDING FEBRUARY 28, 1954 FILED

Financial report of the city for period ending February 28, 1954, by Director of Finance Lawrence, was filed with the Council.

SUMMARY OF EMPLOYMENT STATISTICS FOR CITY OF MODESTO

A summary of information on present city employees hired or promoted since July 1, 1951, was filed by Robert Shelton, Personnel Officer. Comparison of openings and applicants for period March 1, 1953-February 28, 1954, was also shown in the report. This report was ordered filed in the office of the City Clerk.

LETTER FROM CALIFORNIA RECREATION SOCIETY INC., RE: ELIMINATION OF STATE RECREATION COMMISSION

A letter from the California Recreation Society, Inc. advising that the Senate Finance Subcommittee had voted to eliminate the entire budget request of the State Recreation Commission was read and ordered filed.

ADJOURNMENT:

Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 6:30 P. M.

ATTEST:  ANNE M. COLLINS, ACTING CITY CLERK

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Council Meeting  
March 24, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Ordinance No. 1084-N.S.

The Acting City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: None

A few moments of silent prayer were observed.

APPROVAL OF MINUTES

Council members having received copies of the minutes of the meeting of March 3, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

REQUEST OF VETERANS OF FOREIGN WARS REQUEST MAYOR PROCLAIM MARCH 27, 1954,  
AS "VETERANS OF FOREIGN WARS-MODESTO REDS DAY"

Mrs. Floyd Ebbers appeared before the Council on behalf of the Veterans of Foreign Wars She requested that March 27, 1954, be proclaimed as Veterans of Foreign Wars Modesto Reds Day, as the Modesto Reds Baseball team had agreed to cooperate with the V.F.W. in its worthy youth activity program. Councilman Arata introduced

RESOLUTION NO. 54-80

seconded by Councilman Merrill, proclaiming March 27, 1954, as "Veterans of Foreign Wars-Modesto Reds Day", and urging that everyone support this worthwhile program in every possible way, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent; Councilmen: None

LETTER FROM CORROUGH & WONG. ARCHITECTS. RE: OFFER SERVICE BUILD CITY HALL

A letter from Corrough & Wong, Architects, of Stockton California, offering their architectural services in connection with the planning of a new city hall building, was read and ordered filed.

COMMUNICATION FROM WOOD COLONY GRANGE #522-APPRECIATION INSTALLATION OF  
SAFETY DEVICES INSTALLED AT WOODLAND AVENUE-COLDWELL AVENUE AT N. 99 HIGHWAY

A copy of a resolution adopted by the Wood Colony  
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Grange #522, was read. The Grange commended the city for its part in implementing the installation of safety signals at the intersections of Woodland Avenue and Coldwell Avenue with the North 99 Highway at the train crossings. This communication was ordered filed in the office of the City Clerk.

REQUEST OF CITY EMPLOYEES' ASSOCIATION TO HOLD "OPEN HOUSE"

The City Manager reported that the City of Modesto Employees' Association had scheduled one of its events for the coming year---an "Open House", tentatively for mid-August. The Association had requested that this be brought to the attention of the Council and Department heads and their cooperation and assistance solicited.

The City Manager stated that the purpose of the event was to have the citizens of the city see the city facilities and the city personnel in operation. The Council concurred in his suggestion that the city employees proceed on this basis.

CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS GRANTED PERMISSION TO CONSTRUCT DRIVE-OVER TYPE OF CURBING AT ITS CHURCH ON COLLEGE AND ORANGEBURG AVENUES

A request from the Church of Jesus Christ of Latter-Day Saints for permission to install drive-over type of curbing to the off-street parking facilities on its property at College and Orangeburg Avenues, was read. It was pointed out in the discussion that the church property, recently annexed to the city had been started, and plans drawn, under the county regulations. Councilman R. Adams introduced

RESOLUTION NO. 54-81

seconded by Councilman Merrill, granting permission to the said applicant to install drive-over type curbing to the off-street parking facilities of the church property, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPROVE SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR TWO DEEP WELL PUMPS WITH ELECTRICAL EQUIPMENT

Upon the recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-82

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seconded by Councilman Annan, approving specifications and authorizing the calling for bids for the "furnishing of all labor, materials and equipment, and doing of all the work necessary to complete the installation of two deep well pumps with electrical equipment", said bids to be opened at 2:00 P.M., April 12, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes; Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

RESOLUTION AUTHORIZING EXECUTION OF CONTRACT FOR IMPROVEMENT OF THE WATER WELL AT PUMP STATION NO. 2 WITHOUT ADVERTISING FOR BIDS

The City Manager stated that section 1307 of the Charter of the City authorizes the execution of public works contracts without advertising for bids, if such work is deemed by the Council to be of urgent necessity for the public welfare. The well at Pump Station No. 2, located in lots 13-14, Block 528 (Poplar Avenue), is in need of reconstruction, he stated, and due to the unique nature of the work contemplated it is impossible to prepare specifications and other provisions for advertising under the required bid procedure. He recommended that arrangements be approved by the Council for the execution of a contract to do the necessary work without calling for bids. Councilman Arata introduced

RESOLUTION NO. 54-83

seconded by Councilman M. Adams, declaring that the reconstruction of said water well at Pump Station No. 2, is urgently necessary for the preservation of life, health or property and that the City Manager be authorized to enter into a contract or contracts for the completion of the reconstruction of said water well, without advertising for bids, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ORDINANCE REGULATE INSTALLATION OF TELEVISION ANTENNAS

Provisions of a proposed ordinance regulating television antennas installation, were outlined by the City Attorney. The

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question of the necessity of requiring one-fourth inch thickness for metal plate was discussed. Building Inspector Hermida stated that one-eighth thickness would meet structural safety requirements. Councilman M. Adams recommended that some provision for the gauge of tubing, which he recommended should be less than 16 gauge, should be set as a minimum standard in the ordinance.

It was agreed that rather than delay the consideration of the ordinance until various television concerns could be contacted for their approval of the size of the gauge, that the ordinance be changed only in the required thickness of the metal plate, and that an amendment be considered at a later date on the size of the gauge. Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that section 2 (b) Mounting be changed to read:

"Every mast and antenna installed on a roof shall be mounted on its own platform or plate covering one (1) or more rafters of the roof. Whenever a plate is used, it shall be of wood at least two (2") inches thick, six (6") inches wide, and eighteen (18") inches long, or of metal one-eighth (1/8") thick, six (6") inches wide and twelve (12") inches long."

Councilman Annan moved the introduction and passage to print of

ORDINANCE NO. 1118-N.S.

as amended, entitled: "AN ORDINANCE REGULATING THE LOCATION, INSTALLATION, ALTERATION, REPAIR AND MAINTENANCE OF TELEVISION ANTENNAS: PROVIDING FOR INSPECTIONS: AND PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried that the City Manager make a further check on the possibility of amending this ordinance to provide a minimum standard for the size of the gauge.

RESOLUTION SETTING DATE FOR HEARING ON PROPOSED ANNEXATION OF THE McHENRY VILLAGE ADDITION

The City Manager reported that the description of the boundaries of the McHenry Village Addition had been approved by the

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County Boundary Commission. Since the boundaries of the area to be annexed are the same as previously considered by the Planning Commission, he stated, it will not be necessary to refer the petition for annexation to the Commission. Councilman Merrill introduced

RESOLUTION NO. 54-84

seconded by Councilman R. Adams, setting the date of 8:00 P.M., April 28 in the Council Chambers as the time and place for the hearing on the proposed annexation of the McHenry Village Addition to the City of Modesto, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

RESOLUTION DESIGNATING OFFICIALS TO PREPARE AND FILE ANNUAL STREET REPORT WITH STATE CONTROLLER

Upon the recommendation of the City Manager, Councilman R. Adams introduced

RESOLUTION NO. 54-85

seconded by Councilman Mellis, designating the City Auditor and Director of Public Works to prepare and file with the State Controller each year the annual street report required by Section 2151 of the Streets and Highways Code of the State of California, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

HOLD OVER CONSIDERATION OF WITHDRAWING WEST DOWNEY ADDITION FROM McHENRY DRY CREEK FIRE PROTECTION DISTRICT

Consideration was held over on the adoption of a resolution withdrawing the West Downey Addition from the McHenry Dry Creek Fire Protection District by reason of its annexation to the City of Modesto.

ACCEPT DEED FROM DR. ROBERT R. MOON ET UX FOR WIDENING ORANGEBURG AVENUE AT MAGNOLIA

The City Attorney presented for the consideration of the Council a grant deed from Dr. Robert R. Moon, et ux, on a portion

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of lot 48 in Block 6056 of Mensinger Tract for the purpose of widening of Orangeburg Avenue at Magnolia Avenue. Councilman Merrill introduced

RESOLUTION NO. 54-86

seconded by Councilman Arata, accepting the aforesaid grant deed from Dr. Moon and authorizing the recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None

Absent: Councilmen: None

HEARING ON REQUEST OF ROBERT A. CRABB FOR AMENDMENT TO ZONING ORDINANCE NO. 1116-N.S. AS RELATED TO PROPOSED OPERATION OF NURSERY AT CORNER OF ORANGEBURG AND McHENRY AVENUES

This being the time and place set for the hearing on the request of Robert Crabb on a proposed amendment to Ordinance No. 1116-N.S relating to the interim zoning of newly annexed territory in so far as it applies to development of a nursery by Mr. Crabb in the area bounded by Orangeburg, Florida and Claradell Avenues, lying west of McHenry Avenue, Mayor Marks declared the hearing open.

Mayor Marks read a letter from Mr. Crabb, setting forth his reasons for desiring such an amendment, a copy of which is on file in the office of the City Clerk.

Mayor Marks reminded Mr. Crabb that at the time he appeared before the Council outlining his proposed plan for developing the nursery, that he had stated, "I would walk very warily in that area if I were you. I know some of the people would object to any commercial use."

Mayor Marks asked Director of Planning Bills to comment on the history of the case. Mr. Bills stated it had never been in the minds of the Planning Commission or the staff to permit invasion of the residential area by a commercial use. The question was whether or not the growing of nursery stock in conjunction with the sale of same immediately adjacent, is a commercial or any agricultural venture. He stated that it had been determined by the Planning Department that the easterly portion of the property in question would be commercial ( C-1) under the former interim zoning provisions; that the remainder of the property would be in Resi-

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dential Agricultural (R-A) zone, which permits single family residences and limited agricultural uses. He also commented regarding the statement in Mr. Crabb's letter to the effect, "that Mr. Roach, one of the former owners of the property, had contacted the Planning Department by telephone and had been advised that it was all right to close the deal." Mr. Bills stated he recalled having told Mr. Roach that there were still many things to be decided and that he probably added, that he believed there was some way it could be worked out in everybody's interest.

Mayor Marks referred to the recent passage by the Council of emergency ordinance No. 1116-N.S., stating the Council felt that areas annexing to the city should have "every bit of protection they had under the county zoning ordinance."

The City Attorney stated, when asked by Mayor Marks whether or not he had determined such a venture is an agricultural or a commercial use, "if it is necessary I could give a ruling on that."

The City Manager stated that the question before the Council is whether this ordinance should be amended to permit the development of the nursery in this area; or in the words of Mr. Grimes, "is the Council willing to remove it from the R-1 zone and make it R-A"?

To a statement of Mr. Crabb's that there had been no objections from the adjoining property owners until Mayor Marks had made the statement at the Council meeting warning him to "walk very warily", Dr. R.R. Moon, residing at 1335 Magnolia Avenue, pointed out that at the informal hearing before the Planning Commission three people opposed the plans for a nursery at this location and that there were on file, two letters opposing the action.

Drawings of the plans for the proposed development were presented and placed on display on the wall of the Council Chambers. Mayor Marks asked "if a variance is granted to Mr. Crabb, would that be zoned C-1 in the middle of a R-1 zone?" "Could Mr. Crabb develop his nursery, keep the property for a few years and then sell it for commercial property?"

The City Attorney stated that it does not automatically become commercial. He pointed out that this could not be accomplished by

a variance but an amendment to the interim zoning ordinance would be necessary.

In response to a question from Mayor Marks, the City Attorney stated that if the area were restored to its former status of R-A, the nursery could legally be maintained under two different conditions; 1) if it were accessory to a residential use; or 2) if it can be determined that it is a green-house. In connection with this he cited the case of the town of Needham vs. Winslow Nurseries. In this case the Winslow Nurseries was existing in an R-1 zone. The use included a greenhouse and a nursery; the growing of trees, shrubs and plants, sales and storage of same, sale and storage during the Christmas season of Christmas trees; the maintenance of trucks, signs, and a small garden supply establishment. After a change of zone to R-A, the city brought suit. The ruling was that the garden supplies were in violation, likewise the Christmas trees, because they were not growing trees. A greenhouse was distinguished from a florist establishment, but the words "greenhouse" and "nursery", being used interchangeably with nothing in the law to employ them in any other sense, the nursery was declared a valid operation.

In a case in Los Angeles, in an R-A District, the City Attorney stated, the growing of nursery stock was determined to be a farm activity, therefore allowed. This city's ordinance does not contain this general farm assumption. It does permit accessory uses and a greenhouse is included. He questioned, however, whether the growing of stock in connection with a greenhouse is a use incidental or accessory to the nursery business. He stated he could find no case stating whether it is or is not. His opinion, however, is that it is reasonable to assume that a greenhouse can be located in the Residential Agricultural portion of Mr. Crabb's property, with the granting of a use permit by the Planning Commission.

Mr. Crabb pointed out that he owned approximately 125 feet of commercially zoned property, 25 feet of which he would dedicate for a parking strip; and 300 feet of R-A, as zoned under the former interim zoning provisions. He stated he had a petition signed by adjacent and nearby property owners favoring the development of the nursery and pointed out on a sketch map, the location of those favoring and those opposing.

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Councilman Arata suggested that Mr. Crabb and Dr. Moon consider a compromise-----that the presently zoned commercial property be used for the buildings of the nursery and that an acre adjacent to Florida Avenue be left for residential use, and the balance of the property be used for the growing of nursery stock. Mr. Crabb objected on the grounds that this would reduce his growing area to slightly more than he presently had, which has proven too small.

Mr. DeZorzi, property owner on Claradell Avenue, spoke in favor of the establishment of a nursery at the proposed location. He pointed out that the majority of property owners surrounding the property were in favor and had signed a petition to this effect. "We were not consulted regarding the passage of this emergency zoning ordinance," he stated.

"Governmental agencies do not exist to favor the majority in a given issue, but they are to protect the few against the many or the many against the few," Mayor Marks replied to Mr. DeZorzi. "Already Modesto is overzoned for commercial use", Mayor Marks pointed out.

R. J. Giddings, owner of property at 1130 Magnolia Avenue, contended that he did not agree with the interpretation of the law as outlined by the City Attorney. "If the Council and the City Attorney agree that this is not a commercial type venture", he stated, "a definite determination should be made as to what the use of the property will be." "I request, as a property owner in the immediate area, that that be done and done clearly at this time." He contended that if this request is granted that there would be other requests for commercial establishments.

The belief that Mr Crabb had purchased the property in good faith, after consulting city officials, was expressed by Councilman Mellis. Permission to develop the property as a nursery should be granted by the Council, he stated.

The City Manager asked if the Council would be willing to take whatever action would be necessary to clear the matter of whether nursery stock could be raised on the premises. "It is clear that Mr. Crabb is not asking for a commercial zoning but merely the right to raise

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nursery stock there."

The City Attorney stated that the Council had three different courses of action available; 1) it can turn down the request, 2) it can amend the emergency ordinance to exclude this particular property from R-1 zone and make it R-A zone, in which case the Planning Commission would have the power to grant a use permit, or 3) the Council could zone it commercial. If it is R-A and a use permit is granted, the zoning is R-A not commercial C-1.

To the City Manager's question "is there any implication that a commercial use can be permitted in the future, if it is zoned R-A", the City Attorney stated, "only under the provision of a use permit granted as a home occupation."

Mr. Giddings objected to granting anything to Mr. Crabb on the reasoning of Mr. Mellis----that it should be so done only in accordance with the ruling laid down by the City Attorney. The hearing was declared closed by Mayor Marks.

Councilman R. Adams moved, seconded by Councilman M. Adams that the City Attorney be instructed to prepare an amendment to interim zoning ordinance No. 1116-N.S. zoning a portion of the property owned by Mr. Crabb as R-A. Mayor Marks declared the motion carried.

Mayor Marks stated that "I voted no because I feel that the rights of the few should be protected and that the entire area was promised the same protection when they annexed to the City Modesto as they had when they were citizens of the county."

#### INFORMAL DISCUSSION ON PROPOSED ZONING ORDINANCE

Mayor Marks declared the meeting open for informal discussion on the proposed zoning ordinance.

The City Attorney stated that he wished to clear up an impression which he had previously given the Council regarding the procedure for the adoption of the zoning ordinance. He stated it was his recommendation previously that the adoption of the ordinance be held up until the land use map had "moved along in its hearings so that both text and map could be adopted simultaneously." He had meant however, he said, that the text of the proposed ordinance be cleared and acted upon

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but that it not become effective until such time as the land use map had been approved.

The City Attorney also recommended that during the hearings, interested persons be directed to present their opinions, the Council first hear all arguments both pro and con, and then summarize and resolve these points of view.

Mayor Marks asked whether the Council members desired a complete list of differences between this particular ordinance and that of Stanislaus County, in so far as this ordinance may give less protection. The City Attorney stated that he did not feel that the hearings on the proposed ordinance could be approached with the idea in mind that the county ordinance is ideal.

Director of Planning Bills stated that the county ordinance gives less protection through what he characterized as the "step ladder" plan; whereas the proposed ordinance gives equal protection for all types of districts. He pointed out that it not only protects the R-1 districts from industrial encroachment but also protects the industrial districts from encroachment by residences.

The City Manager read two communications suggesting changes in the proposed ordinance, one from the Modesto Irrigation District and one from Foster and Kleiser.

The District had suggested changes in the wording for section 305 (4) (page 11) and for Section 1507 (page 46). The City Attorney stated that he had discussed these proposed changes in the wording with Mr. Plummer of the District and that the wording as submitted was satisfactory to the City Attorney's office.

The letter from Foster and Kleiser suggested that subsection (2) be deleted from Section 1001 (page 29). The City Attorney stated that this point was well taken. Objection to Section 1503 (a) (page 42), was also advanced by Foster & Kleiser. The City Attorney stated that since the proposed ordinance prohibits advertising in residential areas, it is felt that they should be permitted on freeways in other than residential areas.

Copies of these letters are on file in the office of the City Clerk. It was the suggestion of the City Attorney, to which the Council concurred, that copies of these letters be distributed to the Council members.

Mr. Munford, representing Foster and Kleiser, was present. He spoke briefly on the difference between a landscaped freeway and one landscaped mostly for soil erosion control.

The City Manager suggested that the Division of Highways be informed that this matter would be discussed at the formal hearing to be held on April 7.

Councilman Mellis suggested that all possible publicity be given to the hearings and that copies of the proposed ordinance be mailed to such interested parties as the Chamber of Commerce, the Building Trades, etc.

#### ORDINANCE REGULATING COLLECTION OF GARDEN REFUSE

The City Manager stated that the ordinance regulating the collection of garden refuse to be considered at this time by the Council was an endeavor to, 1) establish some reasonable rules and requirements for the collection of garden refuse, 2) to determine the kind of service the city is supposed to render, and 3) to determine what the people expect and are willing to pay for.

The principle matters to be determined are, 1) placement for containers, if containers are to be required, and 2) time the refuse is to be put out for collection. He pointed out that with the increase of 10,000 in population by annexation, one of the reasons for clarifying the rules now was to increase efficiency and give the same service at minimum expense.

The City Manager stated that where alleys exist and people still continue to place refuse in the streets, it necessitates two trips. The refuse is scattered by cars if placed in the streets a long time in advance of the collection day and this is the reason that it proposed to establish the time for placing refuse "one day prior to the date of collection."

Representatives of the League of Women Voters, who were guests of the Council, participated in the discussion. The

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following points were brought out in the discussion of the proposed ordinance:

The suggestion that canvas be used instead of containers for small refuse was disapproved because of the possibility of mildew and vandalism.

An inconvenience would be imposed on a person if they hired a gardener and he could not place the refuse out in the street prior to 24 hours before the collection day for that part of the city.

That cardboard containers in the street would be objectionable. If containers be required that they be of a uniform standard type prescribed by the ordinance. The advantages of requiring a container were that it would save money and time in the collection, and the street would be cleaner.

Councilman M. Adams suggested that a provision be included in the ordinance that "when practical", containers be used. Councilman Mellis advanced the suggestion that it would be a matter of educating the public and when that was done that there would be no trouble.

The City Manager reported that he had contacted the Modesto Garbage Company regarding the possibility of doing the garden refuse collection for the city. The company agreed, he stated, that it could not do this collection for what the city was doing it now since it would have to be an entirely different collection from the garbage collection. He pointed out that if this ordinance was adopted that it would be reasonably enforced.

Councilman M. Adams moved, seconded by Councilman Merrill and it was unanimously carried, that section 3(f) be amended to read as follows:

Containers When practicable all small refuse, (grass, grass clippings, leaves, twigs, etc.) shall be placed in containers of not more than twenty (20) gallons capacity; provided, however, that between Oct. 1 and Dec. 31 of each year, leaves need not be placed in containers. Containers used for small refuse shall be removed from the street or alley on the same day they are emptied.

Councilman Merrill moved that section 3(g), be deleted.

Mayor Marks declared the motion lost for want of a second.

Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 1119-N.S.

entitled: "AN ORDINANCE REGULATING THE COLLECTION OF GARDEN REFUSE IN THE CITY OF MODESTO", which motion being duly seconded by Councilman M. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

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Noes: Councilmen: none

Absent: Councilmen: None

DISCUSS REPORT OF STANISLAUS COUNTY PLANNING COMMISSION FOR COUNTY PARK PLAN

Mayor Marks reported that the whole topic of discussion at the next meeting of the city-county committee, was to be the proposed county park plan. Councilman Mellis recommended that prior to this meeting that the City Manager and his assistants make a thorough study of the proposed plan for the information of the Council.

The City Manager suggested that this study be made and reported to the Council members prior to the scheduled April 1st public hearing before the Stanislaus County Planning Commission on the park plan.

Mayor Marks appointed Councilmen Annan and Mellis to assist the City Manager in this study. It was suggested that the city's position be submitted at this public hearing and that after checking with the members of the Council, the City Manager attend, representing the city.

APPROVE AGREEMENT FOR MAINTENANCE OF STATE HIGHWAY ROUTES IN CITY

Upon the recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-87

seconded by Councilman R. Adams, approving agreement with the State Department of Public Works, Division of Highways, for maintenance of State Highway routes in the city, which was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

ACCEPT CONTRACT AS COMPLETED BY OSTERBERG AND CARROLL FOR DRILLING OF TWO DEEP WELLS (#1 and #17 STATIONS)

The City Manager filed a report that all the work in connection with the drilling of deep wells at Stations #1 and #17 had been completed by Osterberg and Carroll, as of March 18, 1954, in accordance with the specifications. Recommendation that progress payment of \$3434.32 be paid to said contractor and that notice of completion be filed with the Stanislaus County Recorder, was made by the City Manager. Councilman M. Adams

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introduced

RESOLUTION NO. 54-89

seconded by Councilman Arata, accepting the work as completed by Osterberg and Carroll, authorizing progress payment of \$3434.32 to said Osterberg and Carroll and authorizing the City Clerk to record "Notice of Completion" with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPOINT ELMER WINGER AS SPECIAL ASSISTANT CITY ATTORNEY DURING ABSENCE  
OF THE CITY ATTORNEY AND FIXING THE COMPENSATION THEREFOR

Councilman Mellis suggested that during the absence of City Attorney Grimes, who has been recalled to temporary active duty in the military service for a period of approximately 3 weeks, commencing April 5, 1954, Attorney Elmer Winger be appointed as special assistant City Attorney, and introduced

seconded by Councilman Merrill, appointing Elmer Winger, Special Assistant City Attorney during the absence of the City Attorney and that compensation rate of \$5.00 per hour be established, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan; Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

CITY OF MODESTO TO JOIN WITH CITY OF FRESNO AS AMICA CURIAE IN A SUIT RELATING TO THE WATER RIGHTS OF CITIES

The City Manager reported that the City of Fresno has requested that the City of Modesto join as amici curiae in a suit relating to the water rights of cities. It was his recommendation, and that of the city, that because of the importance to the city of the protection of water rights of municipalities, that the Council consider joining in the suit. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the City Attorney be authorized to advise the City of Fresno that the City of Modesto is agreeable to join in amici curiae brief.

REPORT OF AUDIT OF POLICE DEPARTMENT RECORDS WITH REFERENCE TO HOLIDAYS

The City Manager reported that an audit of the Police Department records with reference to holidays had been completed by the Director of Finance, Fred W. Lawrence, a copy of which is on file in the office of the City Clerk. This report covered a period from March 1, 1944 through Dec. 31, 1953. Summary schedules resulting from this audit which indicated the number of holidays worked and the accrued holiday time were included in the report, which showed a net accrued holiday time for 32 employees to be "accrued holidays worked 1127, and accrued holiday time, \$18,064.29."

The City Manager pointed out that this was only a tabulation of the possible contingent liability to the city and that it was not in any sense to be considered as an acknowledgement of a liability.

The City Attorney stated that "it was a prima facie liability on the basis of Resolution No. 6133-N.S., adopted on March 1, 1944. 3-24-54 pg. 15

Records reflect the holiday worked. The tabulation is as it appears at this time in the light of that resolution. Whether this is a liability is a different matter", he stated.

The City Manager stated "we have brought to you the facts as we find them in the records. What happens will be a legal matter." He pointed out that this report covered the Police Department only since regular attendance records were not kept by the Fire Department. He stated that claims had been filed by two police officers.

The City Attorney stated that "you will remember that I rendered an opinion on this subject, dated Nov. 18, 1953, based upon the information which was furnished to me at that time, approving the legality of the claim of Thos. H. McCumber. Since that time I have been supplied with additional information which has raised several questions in my mind as to the correctness of my original conclusion. It now appears that there is some uncertainty as to the legality of this payment. Because of the existence of some technical defects in the adoption of the underlying resolution the legality of the claim is questionable and it would seem that the matter can best be resolved through negotiation.

Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the City Manager and City Attorney be instructed to investigate this matter, both as to clearing out the facts and to consider means of reaching a settlement with the various parties who have claims.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:30 P.M.

ATTEST:  ANNE M. COLLINS, ACTING CITY CLERK

April 7, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P. M., as provided by Ordinance No. 1084-N. S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: None

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 meetings of March 10, 17, and 24, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### CITY MANAGER TO ARRANGE MEETING FOR CONSIDERATION OF AMENDING PLUMBING ORDINANCE NO. 1100-N. S.

At the suggestion of Mayor Marks, Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that the City Manager make arrangements for a meeting to be held jointly with representatives of labor, representatives of the plumbing companies and the Council plumbing committee, to consider the possibility of amending Plumbing Ordinance No. 1100-N. S. as it relates to water using appliances.

#### REQUEST OF F. W. HAGEN TO DISCUSS INSURANCE REQUIREMENTS FOR AMBULANCES OPERATING IN THE CITY

A letter from F. W. Hagen requesting permission to appear before the Council to discuss insurance requirements for ambulances operating in the city, was read. The City Clerk was directed to notify him that permission to appear at any time suitable for him would be agreeable.

#### REQUEST OF MODESTO THEATRES (RAY DUDDY) TO ADVERTISE SHOW "GYPSY COLT"

A request filed by Ray Duddy, District Manager of Modesto Theatres for permission to transport a black horse on a trailer through the city streets, to advertise the show "Gypsy Colt" which is being shown in the Covell Theatre April 7-8 was considered.

The criteria, as outlined in Ordinance No. 1111-N. S., in determining whether or not the Council shall grant permit, was discussed.

Mayor Marks pointed out that if this request was granted that many other stores would apply for similar permits to advertise their stores.

Mr. Duddy, who was present, stated that other cities permitted this type of advertising, which he contended was not hazardous to the public health and safety.

Councilman Annan moved that permit be granted with the provision that the city be held harmless from and against any and all costs, damages and liability arising out of the use of the city streets by the Theatre.

Councilman M. Adams felt that in granting this permit the Council would be "getting away from the intent of the ordinance" and that it would increase the granting of permits to a point where a traffic problem would be created.

Mayor Marks declared the motion died for lack of a second.

Mr. Duddy asked and received the Council's technical interpretation of the ordinance as related to the wording "vehicle."

Councilman Lyndall Merrill arrived at this time (4:25 P. M.)

LETTERS REGARDING ARCHITECTURAL SERVICES IN BUILDING CITY BUILDINGS

Letters from Kaestner & Kaestner, Architects, 1104 15th Street, John W. Bomberger, Architect, 1506 10th Street and Valley Builder's Exchange, Inc. regarding architectural services in the building of the proposed city hall were summarized by the City Manager. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that the three letters be filed until such time as plans for the building of a city hall are considered.

MODESTO SHRINE CLUB REQUEST CIRCUS LICENSE FEE BE WAIVED

A request that the circus license fee required by Ordinance No. 750-N. S. be waived, for its annual showing of the Shrine Circus, July 30 and 31, 1954, was filed by Ward C. Rowe, General Chairman of the Circus Committee of the Modesto Shrine Club. Councilman Arata introduced

RESOLUTION NO. 54-90

seconded by Councilman Annan, waiving the circus license fee of \$300

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required by Ordinance No. 750-N. S., for the Shrine Circus to be held on July 30 and 31 at the Junior College Stadium under the sponsorship of the Modesto Shrine Club, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: R. Adams

LETTER FROM FRANK ANDREWS RE: PETITION TO U. S. SENATE RE: PURE SIERRA MOUNTAIN WATER

A letter from Frank Andrews reporting on his activity in securing signatures to a petition to the United States Senate regarding securing pure Sierra Mountain water for Modesto, was ordered filed.

APPOINT COUNCILMAN ARATA REPRESENT CITY AT STANISLAUS COUNTY CHAMBER OF COMMERCE MEETING RE: CENTENNIAL CELEBRATIONS FOR COUNTY OF STANISLAUS

Mayor Marks appointed Councilman Arata to represent the City of Modesto at a meeting of the Stanislaus County Chamber of Commerce Board of Directors to be held April 7th at 7:30 P. M., at the County Center #3 to consider Centennial Celebrations which might be planned throughout the county.

LETTER FROM MODESTO CITY HOSPITAL MEDICAL STAFF RELATING TO TRAFFIC PROBLEM AT SEVENTEENTH AND H STREETS

At the suggestion of the City Manager, a communication signed by the Medical Staff of the Modesto City Hospital, regarding the traffic situation existing at the intersection of 17th and H Streets, was referred to the Traffic Committee and Traffic Engineer to be shortly hired by the city.

Councilman R. Adams arrived at 4:30 P. M.

FIRST FORMAL HEARING ON PROPOSED NEW ZONING ORDINANCE

This being the time and place set for the public hearing on the proposed zoning ordinance for the City of Modesto, the hearing was opened by the Mayor.

Discussion ensued as to the time to hold adjourned or subsequent hearings on the proposed ordinance, in order to be able to take advantage of the experience of the Director of Planning prior to the effective date of his resignation. It was agreed that the hearing should be continued on

successive Tuesdays at 7:30 P. M., and if other hearings are necessary, the time will be decided later. It was agreed also that each meeting be devoted to some particular subject of the proposed ordinance, the subject to be discussed to be announced prior to the meeting. Mayor Marks requested those persons having objections to, or suggestions about any special section of the proposed ordinance to present it in writing to the City Council as far ahead of the discussion date as possible.

Mr. Tod Campbell questioned the advisability of studying the text of the ordinance until a zoning map is ready for presentation. He was informed that the text of the ordinance would be studied, changes made if necessary, and the text adopted, but on a basis that the effective date of the ordinance would coincide with the effective date of the new zoning map.

Councilman Mellis referred to Section 1516, subsection 1, page 50, in relation to drainage of off-street parking areas, pointing to the fact that no drainage system is provided in a number of locations in the City. Mr. St. John, a representative of McHenry Village, Inc., stated they had taken care of this problem very satisfactorily by the use of french, of sub-surface drains. Mr. Ray stated this is the only method available in many cases; that in the wording of this ordinance, the intent is to alleviate the problem insofar as possible.

Mr. Chet Spearing, corner of Miller and Covena Avenues, expressed concern over the required size of lots in the proposed ordinance in relation to a personal matter of a dedication desired by the County prior to annexation of his property. He was requested to check this through with the City Manager; the Council, having some previous knowledge of the problem, feeling that it did not relate expressly to provisions of the proposed ordinance.

Mr. Donald Erickson of the Erickson Plumbing and Electrical Supply, 1616 Tully Road, referred to the possible future zoning of this area and the effect it would have on already established businesses. Mr. Bills explained briefly the problem facing this type of use and the possible future zoning. Mr. Miller pointed out this relates directly to the proposed

provisions governing nonconforming uses and suggested that a hearing in the near future be designated as dealing entirely with this subject.

Attorney Francis Halley stated he is particularly interested in the proposed off-street parking provisions. He referred to Section 1511, page 45, with particular emphasis on the requirements proposed for business and professional offices and retail stores. He cited as example the purchase of property, regardless of location, on which the owner wishes to structurally alter the building. This would come under the provisions of Section 1511, and if the building contained large gross floor area, the parking space required would be of considerable magnitude. In some cases, he stated, it might be necessary to purchase additional land at exorbitant prices in order to comply with the provisions. He stated he raised this issue on behalf of his clients. He stated he feels the particular clause is extremely harsh and questioned its legality. He stated he feels such a decision on parking space should be left up to the man making the investment and should not be imposed upon him by the City Council or any other legislative body. Mr. Halley requested that he be notified of any future meetings at which the parking provisions will be discussed.

Mayor Marks stated this will receive a lot of study and it was agreed that Mr. Ott of Stockton be invited to attend the next discussion on parking requirements. Councilman Arata stated if the requirements are too harsh, that remodeling or new building will be done out of town. Councilman Mellis felt that an area equal to 50% of the gross floor area for a retail store is perhaps too harsh but stated he feels some parking space should be provided by the property owners.

On Mr. Mellis' suggestion, the Council agreed to take up the proposed provisions governing off-street parking at an adjourned hearing to be held on April 13 in the Council Chambers at 7:30 P. M.

Mr. W. H. Murray asked if the original intention of the zoning ordinance was to exclude the downtown central business area from the off-street parking provisions. He was told this was one proposal that would be discussed later.

The hearing was adjourned by the Mayor until Tuesday, April 13 at 7:30 P. M. in the City Council Chambers, 717 Tenth Street.

REQUEST FILED BY GEORGE W. FINK THAT THE COUNCIL ADOPT RESOLUTION OPPOSING PROPOSED COUNTY ORDINANCE ZONING TERRITORY SURROUNDING CROWS LANDING AIRPORT

A request that the Council adopt a resolution opposing the proposed county ordinance zoning the territory surrounding the federal airport near Crows Landing, was filed by George W. Fink. It was agreed by the Council that this communication should be referred to the county without any action and that the City Clerk notify Mr. Fink of the action of the Council.

ACCEPT RESIGNATION OF RECREATION COMMISSION

A letter from Mrs. Elizabeth Benkendorf, Chairman of the Modesto City Recreation Commission, was read. Mrs. Benkendorf asked that the letter be accepted as notice of the resignation of all the members of the commission, which included, besides herself, Rev. John Mills, Leo Hammett, Bessie Singleton, and Jack Wherry. She stated that,

"Some of the members have served in this capacity since the original commission was formed in 1938 and have devoted much of their time since then to developing the field of recreation in the Modesto Area. And so now, having served these many years we turn over the duties and responsibilities of the Commission to the Council and hope that another citizens group may be appointed to continue this vital work. On behalf of the entire Commission may I express my deep appreciation to you and the Council and through this letter to the Councilmen who have preceded you, for the splendid spirit of cooperation that has prevailed through the years."

Mayor Marks suggested, to which the Council concurred, that letters of appreciation be sent to each member expressing the gratitude of the Council and citizens of the city, for the many long years of service. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that copies of the letter be sent to former members of the Council. Councilman R. Adams introduced

RESOLUTION NO. 54-91

seconded by Councilman Merrill, accepting the resignation of the members of the Modesto City Recreation Commission, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REPORT ON BID OPENING FOR SHOP BUILDING AT AIRPORT

The City Manager reported that one bid had been received for the building of a shop building at the airport, which had been opened at 2:00 P. M., March 29th. This bid, from Coddling Construction Company, he stated, did not meet the specifications as the annual rental fee of \$1200 to be paid by the city to the successful bidder had been increased to \$1400. He recommended that this bid be rejected and new bids be called for and that the specifications provide that "the rental fee be 10% of the price for the construction of the building." Councilman R. Adams introduced

RESOLUTION NO. 54-92

seconded by Councilman Arata, rejecting the bid of Coddling Construction Company as it did not conform with the specifications, approving the new specifications for the building and authorizing the calling for new bids for the construction of the shop building at the airport, said bids to be opened at 2:00 P. M., April 19, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

LETTER FROM PLANNING COMMISSION RE: AMEND ZONING ORDINANCE NO. 700-N. S.  
ZONE CROWS LANDING INDUSTRIAL DISTRICT

A letter was read from the City Planning Commission advising that at the two public hearings held by the Commission on the proposal to precisely zone the Crows Landing Road Industrial District as M-1, industrial use, that no written or oral protests had been filed. A copy of resolution No. 120 recommending that Ordinance No. 700-N. S. (Zoning) be amended to provide for this classification of zoning, was adopted by the Commission at its meeting of March 30, 1954, was transmitted with the letter. Councilman M. Adams introduced

RESOLUTION NO. 54-93

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seconded by Councilman Annan, setting the date of April 21 at 4:30 P. M. in the Council Chambers, as the time and place for the public hearing on the proposed amending of Zoning Ordinance No. 700-N. S. to precisely zone the Crows Landing Road Industrial District as M-1, industrial use, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

LETTER FROM PLANNING COMMISSION RE: AMEND ZONING ORDINANCE NO. 700-N. S. PROVIDE FOR ONLY ONE PUBLIC HEARING BEFORE COMMISSION AND COUNCIL

Notification was received from the City Planning Commission that at the two public hearings held on the proposal to amend Zoning Ordinance No. 700-N. S. to conform to the provisions of the State Planning Act which requires that only one public hearing each before the Commission and the Council be held in the matter of amending or adopting a zoning ordinance. At its special meeting held March 30, 1954, the Commission adopted resolution No. 121, a copy of which was transmitted to the Council, recommending that the Council adopt an amendment to Ordinance No. 700-N. S. effecting this change in the ordinance. Councilman Arata introduced

RESOLUTION NO. 54-94

seconded by Councilman Merrill, setting the date of April 21. at 4:45 P. M. in the Council Chambers as the time and place for the public hearing on the proposed amending of Ordinance No. 700-N. S. (Zoning) to provide that only one public hearing each before the Commission and the Council be held in the matter of amending or adopting a zoning ordinance, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1118-N. S. REGULATION OF INSTALLATION OF TELEVISION ANTENNAS

Ordinance No. 1118-N. S. entitled: "AN ORDINANCE REGULATING THE LOCATION, INSTALLATION, ALTERATION, REPAIR AND MAINTENANCE OF TELEVISION

ANTENNAS: PROVIDING FOR INSPECTIONS: AND PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE" having been heretofore introduced and ordered printed and published at the regular meeting of March 24, 1954, Councilman M. Adams moved, seconded by Councilman Annan, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None

Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1119-N. S. REGULATING COLLECTION OF GARDEN REFUSE IN THE CITY

Ordinance No. 1119-N. S. entitled: "AN ORDINANCE REGULATING THE COLLECTION OF GARDEN REFUSE IN THE CITY OF MODESTO", having been heretofore introduced and ordered printed and published at the regular meeting of March 24, 1954, Councilman R. Adams moved, seconded by Councilman M. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: Merrill

Absent: Councilmen: None

ORDINANCE AMENDING ORDINANCE NO. 1116-N. S. REZONE PORTION OF PROPERTY BELONGING TO ROBERT CRABB

Councilman Arata moved the introduction and passage to print of  
 ORDINANCE NO. 1120-N. S.

entitled: "AN ORDINANCE AMENDING SECTION 1 of ORDINANCE NO. 1116-N. S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE AMENDING THAT PORTION OF SECTION 2 ENTITLED 'ZONING OF NEWLY ANNEXED TERRITORY' OF ORDINANCE NO. 700-N. S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE OF THE CITY OF MODESTO, STATE OF CALIFORNIA, ADOPTING A LAND USE PLAN, BEING A DISTRICTING PLAN, AS A PART OF THE MASTER PLAN OF SAID CITY: SPECIFYING THE PURPOSES AND THE EFFECTS OF THE ADOPTION OF SAID PLAN WHEREBY VARIOUS DISTRICTS ARE ESTABLISHED IN SAID CITY: SPECIFYING THE USES OF LAND AND OF BUILDINGS PERMITTED IN SAID DISTRICTS: ESTABLISHING CERTAIN HEIGHT LIMITS OF BUILDINGS WITHIN SAID DISTRICTS: REQUIRING CERTAIN YARDS AND OTHER OPEN SPACES WITHIN SAID DISTRICTS

PRESCRIBING REGULATIONS FOR THE ERECTION, CONSTRUCTION, LOCATION, ALTERATION AND MAINTENANCE OF BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS IN SAID DISTRICTS: SPECIFYING THE PROCEDURE FOR THE ADMINISTRATION OF SAID PLAN, SPECIFYING THE PROCEDURE FOR THE AMENDMENT HEREOF, AND PRESCRIBING THE PENALTY FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE' AS AMENDED BY ORDINANCE NO. 927-N. S.' BY AMENDING SECTION 1 THEREOF," which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill

Noes: Mayor Marks

Absent: Councilmen: None

Mayor Marks stated that it was his opinion that the areas coming into the city were entitled to at least the same protection as they had in the county.

#### PURCHASE OF DRIVE UP BOOK RETURN AUTHORIZED

Although \$280 was included in the 1953-54 budget for the purchase of a Drive-Up Book Return for the McHenry Public Library, the City Manager stated, the purchase was to be subject to approval by the Council. (Council meeting of August 12, 1953) He read excerpts from the minutes of the Library Board meeting of March 23, 1954, in which the Board urged the immediate purchase of this equipment. Councilmen R. Adams, and Annan had attended this meeting. Councilman Annan had expressed opposition to its purchase.

Librarian Hamilton outlined the benefits to be derived from the installation of this equipment on 14th Street at I Street, which would necessitate the removal of one parking meter. These benefits included quicker book turn over, return of delinquent and stolen books, as well as a great convenience to the general public.

Councilman R. Adams moved, seconded by Councilman M. Adams, that the library be allowed to purchase the drive-up book return. Mayor Marks declared the motion carried.

RESOLUTION WITHDRAWING WEST DOWNEY ADDITION FROM McHENRY-DRY CREEK FIRE DISTRICT

Upon the recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-95

seconded by Councilman Arata, officially withdrawing the West Downey Addition, which had been annexed to the City of Modesto on January 25, 1954, from the McHenry-Dry Creek Fire Protection district, and authorizing the City Clerk to transmit certified copies of this resolution to the State Board of Equalization and the Assessor of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPROVE AGREEMENT WITH A. NELSON AND E. S. WILBOURN FOR SEWER SERVICE FOR SHOPPING CENTER TO BE CONSTRUCTED AT COFFEE ROAD AND ORANGEBURG AVENUE

Provisions of an agreement between the city and A. Nelson and E. S. Wilbourn for the furnishing of sewer service to a shopping center to be constructed at Orangeburg Avenue and Coffee Road, were summarized by the City Manager. Councilman Annan introduced

RESOLUTION NO. 54-96

seconded by Councilman R. Adams, approving the agreement and authorizing execution by the authorized city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

CONSIDERATION OF CLARIFICATION OF CITY EMPLOYEES VACATION AND HOLIDAY POLICY HELD OVER FOR FURTHER CONSIDERATION

Personnel Officer Shelton outlined the proposed vacation and holiday policy for city employees as prepared by the firm of Louis J. Kroeger & Associates, which he stated had been approved by the Personnel Commission as well as the city employees' committee on personnel. This

proposal, he stated, will be included in the rules and regulations. Since the 1954 vacation period is approaching and the existing legislation governing vacation and holidays is not clear or precise, there is a need for clarification at this time. Councilman Mellis recommended that the entire rules and regulations be considered by the Council at one time.

The City Manager pointed out that if the Council wished to consider the matter further, that vacations could be scheduled on the existing regulations and that a limit of two calendar weeks per year could be granted until clarification had been completed.

It was agreed by the Council that further study would be desirable before any decision was made.

#### REMINDER OF TERMINATION DATE OF INDUSTRIAL SEWAGE SERVICE CHARGES

The City Manager reminded the Council that the industrial user rate schedules specified in Ordinance No. 1092-N. S. would expire May 31, 1954. He reported that a meeting had already been held with the Council's sewer committee. Industrialist will be advised of this fact shortly and a meeting set up to check out the problems with them and the Council committee. A report would be submitted to the Council shortly, he stated.

#### REPORT FROM SUB-COMMITTEE ON CITY BUILDINGS OF THE FORWARD MODESTO COMMITTEE

Mr. Cleveland Stockton, member of the sub-committee on city buildings of the Forward Modesto Committee stated that the report submitted by the Council committee on the use of the Old John Muir School building for a city hall had been considered. This report, he stated, had been called to the attention of the full committee. The recommendation that the City Council Chambers be moved to the basement of the Library, had been discussed. He stated that the committee had not considered it necessary to adopt a resolution at this time on this particular part of the report, since it was somewhat outside the scope of its study and its final report will be presented within the next month.

Mr. Stockton stated that the sub-committee was requesting the Forward Modesto Committee, in its determination of which action is most

urgent, to recommend to the City Council, that consideration of the City Hall Building be given the highest priority.

CITY MANAGER TO CHECK ON USE OF BASEMENT OF McHENRY LIBRARY FOR COUNCIL CHAMBERS

Councilman Mellis moved, seconded by Councilman M. Adams and it was unanimously carried, that the City Manager be instructed to proceed with the necessary steps to prepare the basement of the McHenry Library for a temporary Council Chambers and to report back to the Council.

APPROVE FINAL MAP OF TSCHANTZ-VAN HORN TRACT

The City Manager reported that the subdivision map of the Tschantz-Van Horn Addition was in order and had been approved by the Planning Commission; that the necessary deposit of \$449.50 for checking fees, copies of maps, street lights had been filed with the City Clerk; that the bond was in order except for additional signatures. He recommended approval of the map, subject to the necessary additional signatures.

Councilman Merrill introduced

RESOLUTION NO. 54-97

seconded by Councilman Arata, approving the map, subject to the condition that the proper signatures be secured on the bond, and authorizing the recording of the map, which resolution was regularly adopted by the following vote:

Ayes:	Councilmen:	M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks
Noes:	Councilmen:	None
Absent:	Councilmen:	None

ACCEPT DEED FROM OTTAVIO AND ADELE TROMBETTA FOR WIDENING OF ROSEBURG AVENUE NEAR DEL VALE AVENUE

The City Manager stated that grant deed had been obtained from Ottavio Trombetta and Adele Trombetta for alley and street widening purposes at Del Vale Avenue and Roseburg Avenue. Councilman Arata introduced

RESOLUTION NO. 54-98

seconded by Councilman Mellis, accepting said deed and authorizing the recording with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

ACCEPT FINANCIAL REPORT FOR MONTH OF MARCH, 1954

The City Manager filed the financial report for the month of March, 1954.

REPORT ON HEARING BEFORE COUNTY PLANNING COMMISSION ON COUNTY PARK PLAN

The City Manager reported that the Council Committee and he had attended the first public hearing on April 1, of the County Planning Commission on the proposed county park plan. General support and very little opposition to the plan was expressed at this meeting, he stated. The City representatives took the stand that in general the City was in favor of the plan but with the reservation that some adjustments in administering the plan would possibly have to be made. At the city-county meeting to be held April 12, the plan will be discussed with the Board of Supervisors, Councilman Mellis stated.

REPORT ON PROPOSED TESTING PROGRAM OF HAYWARD SEWAGE DISPOSAL PLANT

The possibility of setting up a precise testing program of the City of Hayward Sewage plant is being explored, the City Manager stated, since this plant is similar to the one proposed for this City. There is some assurance of cooperation in this program, from the City of Hayward, Dorr Company, Harry Jenks, who is also the consulting sanitary engineer for the City of Hayward, and possibly the City of Sunnyvale. At this time the approximate cost of such a program is not certain, as it would depend upon the intensity of the program. This proposed program, he stated, if the Council agreed would 1) check accurately and precisely the operation of the performance of the plant on different kinds of loads and 2) provide valuable information on the design efficiency, methods of operation and the

relative merits of the plant before Modesto's plant was built..

The City Manager stated that he would bring a formal proposal as to the cost and method of conducting the tests shortly. The Council asked him to work out a specific proposal with the other interested parties.

REPORT ON OPENING OF NEW COUNTY REFUSE DISPOSAL AREA

The City Manager reported that the county had opened a new refuse disposal area and it was proceeding on the premise that all operators should use this new area. He suggested that the contract which the city has for the operation of the existing refuse dump with the operators of the Modesto Garbage Company which expires June 30, 1954, be amended to permit its immediate closing. He pointed out that if this was done there would be no close in area for people to dump refuse. Since there would be additional cost to the operators to dump in the new area, an increase in rates had already been requested from the County. He suggested that the City work with the County and until a thorough study is made to determine the possible need for a fair increase has been agreed on, that neither act.

John Borghello, representing the Modesto Garbage Company, asked if the new dump was closed, would the company be permitted to reopen the old one. He stated that there was still some room remaining since a new trench had been started and should be filled before the dump was abandoned. He pointed out that the agreement with the county for the leasing of the new dump was only for one year. It was agreed by the Council that the Council committee, composed of Lyndall Merrill, M. Adams, and R. Adams, should consider the matter; working with the county on the rate and on the closing of the present city dumps.

REPORT ON RECOMMENDED REORGANIZATION OF THE PUBLIC WORKS DEPARTMENT

A report was filed with the Council by the City Manager on the recommended organization of the Public Works Department, as prepared by the Louis J. Kroeger & Associates. Approval of the report was indicated by the City Manager, which called for

1. Reorganization of the Public Works Department with five divisions; Airport, Engineering, Construction, and Maintenance, Service and Sewage Treatment
2. Establishment of a Department of Recreation and Parks with two Divisions: Parks and Recreation

The report outlined the necessary action to be taken by the Council to accomplish these changes. The report was taken under advise- by the Council, with the instruction that the City Manager was to prepare the necessary ordinance for its consideration.

#### REPORT ON RESIGNATION OF DIRECTOR OF RECREATION AND DIRECTOR OF PLANNING

The City Manager reported that resignations had been filed by Director of Recreation, Lee Brooks, and Director of Planning, Franklin J. Bills. Commendation of the fine work done by these officials was expressed by the Mayor and City Manager.

Councilman Mellis asked if when considering appointment to the position of Director of Planning, residents of California should be given preference. The City Manager stated that the announcement of the opening stated that preference would be given to those with California experience.

#### REPORT ON STATUS OF SEWAGE DISPOSAL PROJECTS

The City Manager filed a report on the status of sewage disposal projects with the Council.

#### CONSIDERATION OF RESOLUTION FROM PARKING AUTHORITY RE: OFF-STREET PARKING PROGRAM AND SHARING OF PERSONNEL

Consideration was given by the Council to Resolution No. 24 adopted by the Parking Authority at its meeting of April 1, 1954, relating to participation by the Parking Authority with the City in the employment of a traffic engineer and to the amending of Resolution No. 54-59. The resolution indicated the willingness of the Authority to participate with the City in the employment of the Traffic Engineer on a trial basis for a reasonable period of time under certain conditions. It was recommended by the Authority that Paragraph I, General, sub-paragraph A, Private participation of Resolution No. 54-59 adopted by the Council setting forth the

basic principles to govern the activities of the Authority in conducting an expanded off-street parking program be amended to read as follows:

"A. Private Participation. No public funds shall be expended for the development of any parking facility site unless benefitted property owners and/or merchants make arrangements with the Authority to participate in the cost of the acquisition and development of such a facility in an amount which shall be not less than twenty-five per cent of the total cost of such acquisition and development; provided, (however, that the Parking Authority may hereafter acquire, develop and operate, without such private participation, any specific off-street parking facility if detailed studies indicate such a facility will be self amortizing over a reasonable period of time.) Funds for private participation may be raised either by voluntary contribution or by means of assessment district procedures as the circumstances require. In this connection it shall be the full responsibility of the Authority to determine that each proposed facility is properly located in the public interest, and no offer of a merchant and/or property owner group shall bind the Authority to acquire any site which it determines is not in the public interest and general welfare."

The following points were brought out in the discussion of the Authority's recommendation for amending the resolution of policy on off-street parking facilities:

That the Council should cooperate with recommendations offered by various commissions and boards as much as possible

That the funds available might all be exhausted on the purchase of only one lot

That a definite time limit should be established for amortizing any lot

That the principle of "no private participation" would be undesirable

Bob Bomberger, who present at the meeting, stated that he was present at the Authority's meeting when the resolution was adopted and that it had been thoroughly discussed. He stated that he believed the program of 25% private participation adopted by the Council was unworkable, since property owners in the downtown area, where parking was most urgently needed, were reluctant to sell their property, and that they would rather have their property condemned since they would be permitted by law to reinvest their money tax free. To condemn property, he stated, it would

be necessary to pay 100% cash and with the proposed program of only paying 25% cash deposit on a lot, condemnation proceedings could not be used. He stated that since that "directive was issued by the Council, we have really attempted to go out and get the program going and that they were anxious to get parking as they realized its importance."

The City Manager recommended that the Council sit down with the Authority and clear out any questions. He expressed the belief that the off-street parking program recommended by the Council with 25% participation, could work. He pointed out in connection with the statement of Mr. Bomberger's relating to 25% down payment, that under the program proposed by the Council, "private participation would be at least 25% and with 25% from the city, this would make a down payment of 50%."

Councilman Mellis pointed out that the program was not only limited to the down-town area and lots could be secured on 12th Street, 13th Street, or H Street.

REPORT ON MEETING REGARDING USE OF OLD JOHN MUIR SCHOOL BUILDING

Councilman Mellis reported that he had met with representatives of several organizations regarding the old John Muir School and that they had asked that the city handle the maintenance of the grounds only on a contract basis.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman M. Adams, that the meeting be adjourned until 7:30 P. M., Tuesday night, to further consider the proposed new zoning ordinance. The meeting was adjourned at 7:20 P. M.

ATTEST:  REX E. GAILFUS, CITY CLERK

The Council of the City of Modesto met in adjourned session this date at 7:30 p.m.

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks

Absent: Councilman Annan

PUBLIC HEARING ON PROPOSED ZONING ORDINANCE

This being the time and place set for the public hearing continued from April 7, 1954 on the off-street parking section of the proposed new zoning ordinance for the City of Modesto, the hearing was opened by the Mayor.

Mayor Marks presented Mr. Stanley Ott, Planning Director of Stockton. He had been requested to attend and report on the parking provisions in the zoning ordinance in Stockton, since that City has similar provisions regarding parking as are proposed in the Modesto ordinance now under consideration. Mr. Ott stated that, although certain misunderstandings had arisen in regard to the parking provisions, the people are recognizing more and more their real value. He also stated that the outlying developments are, for the most part, supplying far more parking than is required in the ordinance. Mayor Marks asked whether Stockton had experienced, through these requirements, a tendency on the part of commercial developments to locate in the outlying areas rather than in the central core of the city. Mr. Ott stated that this has not been the case; that temporarily the commission has the authority to waive the parking requirements where space is not available or where a structural alteration will not generate more traffic. Stockton is thinking of the formation of a parking district for this downtown section. It is also felt that space for employees may have to be provided, perhaps some little distance away from the downtown establishments, or that the property owners pay into a parking fund, similar to that now required by subdividers for parks.

Mayor Marks referred to the recommendation contained in the Whitnall report that the central core of the city be formed into a parking district and be exempt from the parking provisions of this zoning ordinance.

Mr. Francis W. Halley asked whether Stockton's ordinance, applying to the downtown area where the provisions cannot be met, requires the granting of a variance in almost every case. Mr. Ott stated, "In many cases but by no means in all cases," and explained this is only because the parking problem in the downtown area has been under study. He recommended exempting the central core of the city

from the parking provisions only after the downtown parking situation has been brought under control. He agreed with Mr. Halley that the required parking provisions would be unworkable in a densely built up area. Mr. Halley stated he felt the providing of parking should be voluntary. Mayor Marks stated the property owner should have a choice of either providing spaces or paying into a parking fund.

Mr. Bomberger advocated exempting the hard core of the city until a definite district for that area has been formed, feeling there is no point in including something in the ordinance that would only increase the requests for variances.

Mayor Marks stated there are three alternate methods by which parking could be provided: 1) on a 25% private participation basis; 2) provide the required space; 3) pay into a "parking fund."

Mayor Marks asked Mr. Bomberger whether there had been strong opposition to the 25% private participation proposal in the downtown section. Mr. Bomberger stated he had heard none as yet, but that all merchants want the problem solved on an overall program, not by blocks and areas. Mr. Bills stated the proposed ordinance exempts any area from the parking provisions if satisfactory provision has been made for parking. Mr. Bomberger stated it is not spelled out clearly as to a satisfactory amount of parking for the area which would be exempt. "It should be tied down to exactly what the program is."

Discussion ensued as to the space required in the Stockton ordinance as compared to the provisions in the proposed Modesto ordinance.

Mayor Marks requested that the City Manager have written, in a comprehensive form, the suggestions and the alternatives as expressed at the hearing. He stated these would be mailed to interested persons upon request, and announced the parking provisions will again be discussed on April 27 at 7:30 p.m.

Mr. Boundey, Chairman of the City Planning Commission, speaking his own personal point of view, stated he felt the parking provisions should be deleted from the proposed ordinance at the present time and added as an amendment later.

Mr. Boundey also referred to Section 1516, subsection (1), stating, in his opinion, this belongs in the building code rather than in the zoning ordinance.

Mr. Ed Taylor asked for clarification as to the 25% participation; if, for instance, is there a provision in the proposed ordinance authorizing the city to participate to the extent of 75% and the owner 25% on a parking lot to serve only one establishment. He also asked whether, once a district is formed, can a property

owner withdraw from the district and furnish his own parking. He was told these were questions requiring legal interpretation and would be given consideration when the City Attorney returns.

In answer to a query by Mr. Plummer of the M.I.D., Mayor Marks stated the suggested wording of the subsections applying to utilities which had been submitted by the M.I.D. would be given consideration by the Council when Mr. Grimes returns.

Mr. Tod Campbell requested information as to the proposed zoning map, as he is interested in whether or not a building he is proposing to erect will be conforming or nonconforming under the new ordinance, if adopted. Mr. Bills stated the map will be ready for Planning Commission review after Monday, April 19. Mr. Miller suggested "nonconforming uses" be the topic of the adjourned public hearing to be held on April 20. Mayor Marks instructed the clerk to notify the public, through the press, of this hearing.

At 9:15 p.m. the Mayor declared the hearing adjourned to Tuesday, April 20, 1954 at 7:30 p.m. in the City Council Chambers.

  
ATTEST: REX E. GALIPUS, CITY CLERK

Council Meeting  
April 14, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M. in the Council Chambers, as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: Annan

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

Invocation was given by Rev. Donald Weston of the Bethel Full Gospel Church.

PETITION OF DONALD L. CURTICE TO CONTINUE OPERATION OF REAL ESTATE AND INSURANCE OFFICE AT 1519 ENCINA AVENUE

A petition was filed by Donald L. Curtice, 1519 Encina Avenue, appealing to the Council to permit him to continue operating his real estate and insurance office at his home in its present status with associates and employees. The use permit granted by the Planning Commission was on a limited scale and would expire on April 6, 1955. Councilman Mellis introduced

RESOLUTION NO. 54-99

seconded by Councilman R. Adams, setting the date of April 28, 1954 at 8:00 P.M. in the Council Chambers as the time and place for a public hearing on the appeal of Donald L. Curtice from the decision by the Planning Commission on the request for a use permit authorizing the operation of a limited scale real estate and insurance office "on a home occupancy basis", at 1519 Encina Avenue, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

LETTER FROM FRANK W. HAGEN RE: INSURANCE REQUIREMENTS ON AMBULANCES

A letter from Frank W. Hagen asking that the Council consider increasing the required liability insurance on ambulances, was read. Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that the City Manager investigate and report to the Council.

LETTER FROM CORROUGH & WONG RE: OFFER ARCHITECTURAL SERVICES FOR CITY HALL

A letter from Corrough & Wong, Architects, of Stockton, offering their architectural services in connection with the proposed city hall building, was read and ordered filed with other similar offers which will all be considered when the city arrives at a point such services are needed.

LETTER FROM GOVERNOR GOODWIN J. KNIGHT RE: SITE OF NEW AIR ACADEMY

A letter from Governor Goodwin J. Knight to Mayor Marks urging that Modesto join with other California Cities in presenting a united cooperative request to the California delegation in Congress that the Air Academy be located in California, was read. Councilman Mellis introduced

RESOLUTION NO. 54-100

seconded by Councilman Arata approving the joining of the City of Modesto

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in presenting a united cooperative request to our delegation in Congress to see that the Air Academy be located in California and authorizing the City Clerk to send a copy of this resolution to Congressman Johnson, Senators Kuchel and Knowland and Governor Knight, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

PETITION FILED BY RUBY REID FOR WIDENING OF PORTION OF RUE DE YOE STREET

A petition, signed by property owners, was filed by Ruby Reid, requesting that the north side of Rue De Yoe be widened 13 feet from James Street, west to LaLoma Avenue, as originally planned by the subdivider, Mr. DeYoe.

Mrs. Reid, who was present, stated that deed to a 13' x 200' strip of land in Block 200 (north side of Rue De Yoe), which had been intended for the widening of the street, had been acquired by Herbert Ramont. Due to this fact, she stated, she had been unable to dispose of her property, which has a frontage of 101' on James and is 200' deep, as she did not have an entrance from Rue De Yoe. She requested the Council to acquire the 13' strip for the widening of Rue De Yoe. Councilman R. Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that the City Manager and City Attorney check and report to the Council.

REPORT ON BIDS RECEIVED FOR TWO DEEP WELL PUMPS

The City Manager reported that consideration of award of the bid for two deep well pumps with electrical equipment, which has been opened at 2:00 P.M. Monday, April 12, would be held up for further checking on the specification on the equipment offered by the low bidder.

LETTER FROM FRANK ANDREWS RE: WATER FOR CITY OF MODESTO

A letter from Frank Andrews relating to his plan for water for the city was read. Mr. Andrews also offered various suggestions for the operation of the city's water system, which were discussed by Director of Public Works Ray.

CONSIDER REDUCTION OF PERCENTAGE WITHHELD IN CONTRACTS

The City Manager reported that it had been the practice of the city to provide in the specifications for any job that a percentage of 25% be withheld for a period of 35 days until the lien period had expired. This provision, he stated, creates a hardship on a successful bidder when the job is a big one. A check had been made with various other cities, he stated. Stockton only retain a 15% percentage and Sacramento 10%. He suggested, to which the Council concurred, that the specifications for the West Sanitary Trunk line provide for the retention of 15% percentage only.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE THE CALLING FOR BIDS FOR CONSTRUCTION OF WEST SANITARY TRUNK SEWER

The City Manager brought to the attention of the Council the problems which were involved in securing right of way deeds for the West Sanitary Trunk Sewer. Some easements have been secured but it is possible that it will be necessary to bring condemnation suits on some parcels. Action cannot be delayed long, he stated, if all this line is to be completed this year. It will be necessary to have all the rights of way before the contract is awarded. However,

he stated it will be legally possible to call for bids before all rights of way are obtain. Councilman Mellis introduced

RESOLUTION NO. 54-101

seconded by Councilman R. Adams, approving the plans and specifications for the West Sanitary Trunk Sewer, authorizing the calling for bids, which will be opened on Monday, May 10, 1954 in the Council Chambers, which resolution was regularly adopted by the following vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

The City Manager pointed out that one of the right of way deeds which will have to be secured by suit is on the property owned by Councilman Arata as the law requires this procedure in the purchase of property from a member of the Council.

FINAL ADOPTION ORDINANCE NO. 1120-N.S. (AMEND ZONING ORDINANCE FOR CRABB PROPERTY)

Ordinance No. 1120-N.S. entitled: "AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 1116-N.S. (INTERIM ZONING)", having been heretofore introduced and ordered printed and published at the regular meeting of April 7, 1954, Councilman R. Adams moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

RESOLUTION AMENDING RULES AND REGULATIONS FOR USE OF MODESTO MUNICIPAL GOLF COURSE

The City Manager summarized the provisions of a proposed resolution amending the rules and regulations for the use of the Municipal Golf Course, which had been prepared as directed by the Council, as a result of the recommendations of the Special Golf Course Committee. Councilman Merrill introduced

RESOLUTION NO. 54-102

seconded by Councilman R. Adams, amending Rule 3 of Resolution No. 4044-N.S. entitled: " A Resolution Adopting Rules and Regulations for the Use of the Modesto Municipal Golf Course", to be effective as of May 1, 1954 and rescinding Resolution No. 9663-N.S., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

RESOLUTION PROHIBITING PARKING ON FOURTEENTH STREET NEAR LIBRARY DRIVE-UP BOOK RETURN

Upon the recommendation of the City Manager, Councilman Merrill introduced

RESOLUTION NO. 54-103

seconded by Councilman Arata, prohibiting the parking of vehicles on the east side of 14th St. beginning on the south side of I St. south for a distance of 20 feet, at which location the McHenry Library is installing the Drive-up Book return; directing the posting of the necessary signs by the Director of Public Works; and rescinding that portion of Resolution No. 10,327-N.S. establishing two hour parking on both sides of Fourteenth Street, in conflict, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

ACCEPT UTILITY EASEMENT FOR WEST TRUNK SEWER FROM BESSIE STOFFER

Terms of a utility easement agreement for a portion of the right of way for the West Sanitary Trunk Sewer, from Bessie Stouffer, which called for the payment of \$100 by the city, were outlined by the City Manager. Councilman R. Adams introduced

RESOLUTION NO. 54-104

seconded by Councilman M. Adams, accepting the utility easement agreement from Bessie Stouffer; authorizing the recording with the County Recorder; and authorizing payment of \$100, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

J.A. HAMILTON DISCUS "DOWN-TOWN" PROBLEMS OF SAN FRANCISCO-

J. A. Hamilton, filed a clipping from the San Francisco News regarding the downtown problems of San Francisco. He briefly discussed the transportation problems of Modesto. Mayor Marks informed Mr. Hamilton this this problem was being considered by the Forward Modesto Committee and that a report would be filed by the committee shortly.

GRANT PERMIT TO MODESTO REDS TO DISPLAY AUTOMOBILE IN BUSINESS AREA

Robert Tuttle, representing the Modesto Reds Baseball Club, requested permission to park a truck and trailer, one day a week, in the forenoon, on the east side of Tenth Street, between I and J Streets (922 I Street), for the purpose of displaying the automobile to be given away by the club on May 6. Various clubs and organizations have agreed to sell tickets on the car, he stated, during the time it is displayed at this location. Councilman R. Adams moved, seconded by Councilman Arata and it was unanimously carried, that the Modesto Reds Baseball Club be granted permission to display the automobile on the trailer, the location to be approved by the Chief of Police and the property owners, between the hours of 9:00 A.M. and 1:00 P.M., not to exceed one day a week (Saturdays excepted), beginning April 15, for a period of three weeks.

MAYOR MARKS DESIGNATED WEEK OF APRIL 19-24- BASEBALL WEEK

Councilman Merrill moved, seconded by Councilman M. Adams, and it was unanimously carried, that Mayor Marks designate the week of April 19-24, as "Baseball Week", and urge the citizens of the city to support the Modesto Reds Baseball Club.

LETTER FROM STANISLAUS COUNTY BAND REGARDING CHANGING OF NAME OF BAND TO MODESTO BAND

A letter from Milo M. Schrock, President of the Modesto Band, was read. Mr. Schrock advised that at the Board of Directors' meeting of the Stanislaus County Band, held on April 6, it was voted to change the name of the band from Stanislaus County Band to Modesto Band. He stated that an estimated expense of \$500/600 would be involved in changing the name of the band and asked the cooperation of the city in assuming these additional expenses. He pointed out that since the band was incorporated under the laws of the State that some expense for changing the name would also be involved. It was suggested by the City Manager

to which the Council concurred, that the City Attorney assist the band in changing over of the incorporation with the state. Councilman R. Adams moved, seconded by Councilman Merrill, and it was unanimously carried, that the City Manager, and Director of Finance be authorized to work with the officials of the Band to determine the cost for the changing of the insignia of the band and to report back to the Council.

LETTER FROM CHAMBER OF COMMERCE RE: REFURBISHING THE I STREET SIGN  
"WATER-WEALTH-CONTENTMENT-HEALTH"

A letter from the Chamber of Commerce regarding the refurbishing of the I Street "Water-Wealth-Contentment-Health" sign, was read. The plan for neonizing the sign had been dropped, the letter stated, because of the cost and because no funds were available for the project.

The City Manager advised that the sign would be repainted and suggested that if anyone had a special color preference to contact the Director of Public Works at once.

REPORT ON PROPOSED DOWN-TOWN LIGHTING DISTRICT

The City Manager reported that on the basis of a recent post card pool conducted by the city, he was proposing for the consideration of the Chamber of Commerce Committee and the Council that either of the following areas be included in a down-town street light improvement district:

Area (a) Tenth Street from F to Needham; Eleventh Street from F St. to L St. The renovations of the existing lights on Ninth Street from G St. to Needham Avenue; G Street between Ninth St. and Eleventh Street H Street, I Street and J Street down to Twelfth Street; and K Street for two blocks

The construction cost only would be approximately \$80,000.

Area (b) alternate  
Tenth St from F St to L St.; Eleventh St. from G St. to K St.; Leaving out Ninth St. entirely; and taking in some of the cross streets.

The City Manager pointed out that it would be possible at the time of the public hearing on the improvement district, to add or delete territory. He suggested that in the interest of "getting the program rolling" that the city supply the engineering service. Councilman M. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that the City Manager proceed to work out the plans for "Area (a)".

CONSIDER AMENDMENT TO CONTRACTS RELATING TO REFUSE DISPOSAL AREA

The City Manager reported that, as requested by the Council, amendments to the existing agreements between the City and the Modesto Garbage Company, which expire June 30, 1954, relating to the leasing and operating of the city's refuse disposal area, had been prepared.

He suggested that the agreement for the leasing of the area be amended to provide for its extension for one year to assure that in case of emergency, the citizens of the city would have a disposal area. As prepared, he stated, the amendment provides that the agreement can be terminated by Council resolution upon 30 days notice. It also provides for the maintenance of the area by the company.

Mr. John Borghello, representative of the company, stated that his company had wished to finish the filling in of a newly opened trench before using the new county area, but that the ultimatum from the county had precluded this. He expressed willingness, on the part of his company, to cooperate in using the new area and in cleaning up and maintaining the old area. He asked that the final date for closing the present area be set for April 19, as this would give time to acquaint the general public with the fact that the area would be closed.

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Agreement to the suggestion of Mr. Borghello's that the present area should remain open until April 19, was expressed by Attorney Douglas Sutter, who was present, representing C. R. Greer, owner of the new county disposal area.

The City Manager pointed out that the city is willing to cooperate with the county but that there may be some problems, since the distance to the new dumping area will be approximately 3 times as far as at present and the people will have to pay the extra cost. Already there are requests for an increase in the present garbage rates. Complete supporting data will have to accompany any request for increase in the rates. The burden of proof will be on the persons making the application, he stated. Other garbage companies operating in the city have already been advised, the City Manager stated, that the rates established by the county do not apply in the city. "We will work out the licensing of all other companies now operating in the city", he stated. Councilman Merrill introduced

RESOLUTION NO. 54-105

seconded by Councilman Arata, approving amendments to the existing agreements with the Modesto Garbage Company for the leasing and operation of the city's refuse disposal area, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

FURTHER CONSIDERATION OF CHANGES IN ORGANIZATION OF PUBLIC WORKS DEPARTMENT

Councilman M. Adams asked, and received approval from the Council, for a further delay of one week in considering the proposed plan for the reorganization of the Public Works Department so that he could check with the Director of Public Works on certain points. He expressed approval of the recommendation that park functions be transferred from the Public Works Department to a new Department of Recreation and Parks, and moved, seconded by Councilman Mellis, and it was unanimously carried, that the recommendation that the Parks functions be transferred from the Public Works Department to a new Department be hereby approved in principle.

DISCUSS REQUEST OF PARKING AUTHORITY TO AMEND POLICY FOR OPERATION OF PARKING AUTHORITY

A further discussion was held by the Council on the recommendations outlined in the Parking Authority Resolution #24, that Resolution No. 54-59 be amended. Mayor Marks stated that it had been the thought of the Authority that during the time the hearings were being held on the zoning ordinance, that the parking program should not stand still.

Councilman Mellis raised the question whether the Authority should be permitted to conduct this type of program with funds collected on the previous 50% basis only. He expressed the belief that it would be "a bad example" if the Authority was permitted to continue this type of program since it would eventually mean that there would be no private participation.

The City Manager suggested that the Council committee check with the Authority to clarify its proposed program. It was moved by Councilman Mellis, seconded by Councilman Arata, and unanimously carried, that this be done and if necessary the Authority be invited to attend the next Council meeting to clarify its proposed program.

REQUEST FOR INSTALLATION OF FOUR WAY STOP SIGNS AT INTERSECTION OF SUNRISE AVENUE AND EAST FAIRMONT AVENUE

Councilman Mellis reported that property owners residing adjacent to the intersection of Sunrise and East Fairmont Avenues, had requested the installation of four way stop signs to curb the fast moving traffic,  
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Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the traffic committee investigate and file a report of its finding with the Council.

REPORT ON ENDEAVOR TO OBTAIN TRAFFIC ENGINEER

The City Manager reported that an examination had been given for Traffic Engineer and four people were on the list but that filling the position must await a decision on joint use of his services with the Parking Authority.

DISCUSS INVITATION OF UNIVERSITY OF CALIFORNIA FOR CITY MANAGER TO SERVE ON STATE-WIDE COMMITTEE FOR PERSONNEL TRAINING COURSE

The City Manager reported that he had been asked to serve on a state-wide committee by the University of California, to work out a program for a special training course to be given to city personnel on traffic engineering, which would involve one trip to Los Angeles and one trip to San Francisco. It was agreed by the Council, when the City Manager advised that he was not anxious to spend the time on the committee, that he not make the trips.

ADJOURNMENT

It was moved by Councilman M. Adams, seconded by Councilman Arata, and unanimously carried that the Council meeting now in session adjourn. The meeting was adjourned at 9:30 P.M.

  
ATTEST REX E. GAILFUS, CITY CLERK

The Council of the City of Modesto met in adjourned session this date at 7:30 p.m.

Present: Councilmen: M. Adams, Arata, Mellis and R. Adams

Absent: Councilmen: Annan, Merrill and Mayor Marks

PUBLIC HEARING ON PROPOSED ZONING ORDINANCE

This being the time and place set for the public hearing continued from April 13, 1954 on the proposed new zoning ordinance for the City of Modesto, the hearing was opened by Acting Chairman Councilman R. Adams.

The Chairman requested that Mr. Bills briefly summarize the nonconforming use section. Mr. Bills enumerated the Planning Commission's reasons for the inclusion of the section. He defined a nonconforming use and nonconforming building and explained wherein the proposed ordinance differs from the existing zoning ordinance as regards nonconforming uses. He stated minor degrees of nonconformity are not of prime importance but that the real concern is over commercial and industrial uses which have intruded into residential zones. He called attention to Section 1705, page 60, with emphasis on the fact that residential buildings in "R" zones are not affected. Sections 1702 and 1703 were explained and after some discussion it was agreed to insert the words "commercial and industrial" in Section 1702, to read, "...that all nonconforming commercial and industrial uses of a conforming building in any of the 'R' zones shall be discontinued..."

Mr. J. L. Wallace, 709 McHenry Avenue, stated his business would fall into the class of a nonconforming use in a residential zone. He expressed the opinion that proposed provisions of abatement in his case might constitute confiscation of property -- even more so, he felt, than where a highway takes over portions of private property, in which cases the owners are reimbursed. He stated it is necessary, from an economic standpoint, since his is a small business, that he operate from his residence. It was noted that this particular use comes under the classification of C-M and would, under the proposed provisions, have a maximum of 20 years and a minimum of 10 years, depending upon the date of construction of the building, to cease operation.

Mr. Wallace referred to the miniature golf course on McHenry Avenue, as extending westward into residential property. Mr. Bills pointed out that the

transitional use provisions as contained in the proposed ordinance would apply in this case and the golf course would not come under abatement provisions.

Attorney Francis Halley, representing Mr. Donald Erickson, referred to Section 1702 as being, in his opinion, extremely harsh. He gave a brief summary of Mr. Erickson's plumbing operations on Tully Road. He stated that, under the circumstances, he feels Mr. Erickson should be allowed to expand his business, to continue to operate indefinitely, and "recommends and urges that the Council read over the provisions of the present zoning ordinance" and he stated he sees no reason why these same provisions cannot be incorporated into the proposed ordinance. Mr. Halley felt the nonconforming use clause should be modified to some extent in order to eliminate hardship in cases such as Mr. Erickson's. Mr. Boundey, Chairman of the Planning Commission, expressed the opinion that provisions might well be included in the proposed ordinance whereby any C-1 nonconforming use in an "R" zone which would be abated by the provisions of this ordinance may be granted an extension of life when, in the judgment of the Planning Commission, its continued operation would be beneficial and not detrimental to the general welfare of the neighborhood.

Mr. Boundey also suggested that the Planning Commission be empowered to grant permits for structural alterations in a nonconforming building providing that such change would not affect adversely the character of the neighborhood nor would the granting of such a permit change the original grant of amortized life of the structure.

Councilman R. Adams stated the Council, he feels, must take some action to relieve hardship existing by reason of annexation if it is proven that it will be any length of time before the new proposed zoning ordinance is adopted, and promised that the Council will do everything it can to expedite relief from the present hardship.

Mr. Halley asked why the granting of a variance to Mr. Erickson is considered illegal. It was stated this had been the ruling of the City Attorney. The legal reasons for granting a variance were explained by Mr. Bills.

Mr. Erickson stated he had attended several area meetings at which annexation of his area was discussed, and at no time was it brought out that nonconforming uses would be considered after annexation.

Councilman Adams asked that Mr. Halley talk this matter over with the City Attorney, who will be back in his office April 26.

Mr. Chet Spearing, 149 Covena Avenue, stated that, under the proposed provisions, his lot at Miller and Covena Avenues, will not conform with respect to lot width. He asked that this area, between Miller Avenue and Yosemite Blvd. be zoned commercial in the new zoning map.

Councilman R. Adams read an article taken from the American City Magazine of November, 1952 entitled "How to Get Rid of Nonconforming Uses." A copy of this article is on file in the office of the City Clerk.

Mr. Bills read an excerpt on the elimination of nonconforming uses from the pamphlet "Zoning and Civic Development," printed by the United States Chamber of Commerce.

Attorney Halley requested information as to when the special memorandum regarding parking provisions will be ready for distribution. He was told it would be out before April 27.

ADJOURNED SESSION

Councilman R. Adams announced that the hearing would be adjourned to Tuesday, April 27, 1954 at 7:30 p.m. in the City Council Chambers, at which time the proposed parking provisions will be further discussed.

The hearing was adjourned at 9:00 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. in the Council Chambers, 717 Tenth Street, as required by Ordinance No. 1084-N. S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: Annan

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

Invocation was given by Rev. B. DenOuden of the First Christian Reformed Church.

AWARD BID FOR CONSTRUCTION OF BUILDING AT AIRPORT TO CODDING CONSTRUCTION CO.

The City Manager recommended that the bid of \$13,600 of Coddling Construction Company for the construction and rental to the city for the 60' x 60' shop building to be constructed at the Municipal Airport, be accepted as it was the only bid and was in accordance with the specifications and notice to bidders. Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 1121-N. S.

entitled: "AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY BELONGING TO THE CITY OF MODESTO TO CODDING HOMES AND APPROVING THE EXECUTION OF AN AGREEMENT WITH CODDING HOMES FOR THE LEASE OF AN AIRPORT BUILDING TO BE CONSTRUCTED THEREON", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

Councilman Arata moved the introduction and passage to print of

ORDINANCE NO. 1122-N. S.

entitled: "AN ORDINANCE PROVIDING FOR THE SUB-LEASE OF CERTAIN PROPERTY TO SAM JONES AND AUTHORIZING THE EXECUTION OF A SUB-LEASE AGREEMENT IN CONNECTION THEREWITH", which motion being duly seconded by Councilman Merrill, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

APPROVAL OF MINUTES OF COUNCIL MEETINGS

Council members having received copies of the minutes of the meetings of April 7 and April 13, and the same being available for public inspection, and there being no objections, the minutes were approved.

LETTER FROM R. G. DELAPPE & M. VAN BOURG, ARCHITECTS RE: CITY HALL BUILDING

A letter from the Russell G. DeLappe & Mitchell Van Bourg Architects, firm, offering its service on the proposed new city hall was ordered filed.

CITY MANAGER REPORT ON PROPOSED COUNCIL CHAMBERS IN BASEMENT OF LIBRARY

The City Manager reported that plans for the use of the basement of

the McHenry Library building for Council Chambers, were under way and would be submitted for Council approval shortly.

APPROVING THE PROPOSAL OF THE STANISLAUS COUNTY PLANNING COMMISSION AS REVISED FOR A STANISLAUS COUNTY PARK PLAN

The City Manager reported that at the recent City-County Committee meeting, it was voted unanimously to support the proposed county park and recreation plan, as revised, submitted by the Stanislaus County Planning Commission.

It is now proposed, he stated, that the program will be under the general supervision of a County Park Commission, members of which will be appointed by the Board of Supervisors from each supervisorial district, that fifty percent of the funds are to go to the County Park Commission for general purposes and fifty percent to local recreation organizations. Allocation of the second fifty percent of the funds will be made to high school district areas on the basis of assessed valuation.

Mayor Marks stated that the committee endorsed the proposal on the basis that any necessary revisions could be made in the light of experience and changing conditions. Councilman Mellis introduced

RESOLUTION NO. 54-113

seconded by Councilman Merrill, endorsing the proposed "A Plan for Park", as revised, submitted by the Stanislaus County Planning Commission, and urging that the plan be adopted and placed in operation as soon as possible on the basis that any necessary revisions can be made in light of experience and changing conditions, and that copies of this resolution be sent to the Stanislaus County Planning Commission and Board of Supervisors, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

LETTER FROM MAYOR E. S. CHRISTOFFERSEN OF TURLOCK

Mayor Marks read a copy of a letter, which had been sent by Mayor Christoffersen to Supervisor Milo Bradshaw, Chairman of the sub-committee of the City-County Committee to study and recommend policies which affect both county and city government, urging that a long delayed meeting be called.

CHANGE IN MEMBERSHIP OF COUNCIL COMMITTEE ON CITY-COUNTY FISCAL RELATIONSHIP

Mayor Marks stated that at the request of Councilman R. Adams, the membership of the Council Committee on city-county fiscal relationship had been changed from Councilmen R. Adams and Arata to Councilmen Mellis and Arata.

DONATION FROM P. E. O. SISTERHOOD, CHAPTER H. W. TO YOUTH CENTER

A donation of \$15.00 for the furniture for the L. J. Maddux Youth Center was received from P. E. O. Sisterhood, Chapter H. W. Councilman R. Adams introduced

RESOLUTION NO. 54-116

seconded by Councilman Arata, accepting the donation of \$15.00 from the P. E. O. Sisterhood, Chapter H. W. for the furniture to be purchased for the L. J. Maddux Youth Center, and authorizing the City Clerk to acknowledge

receipt of the donation and express the appreciation of the Council and the citizens of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

REQUEST FOR AMENDMENT TO ORDINANCE TO PERMIT ERECTION OF 36 SQUARE FEET  
 MAXIMUM SIGNS IN NEW SUBDIVISIONS ADVERTISING SALE OF HOUSES AND LOTS

Dalton P. Ellis filed a request that the provision in the present zoning ordinance permitting only an 8 square foot sign in an R-1 district be changed to permit a 36 square foot maximum sign in new subdivisions to advertise the sale of houses and lots. The City Manager recommended that the present ordinance be amended to permit this during the interim period until the new zoning ordinance is adopted, which permits a sign 100 square foot in size in a new subdivision for a period of two years.

Mr. Ellis, present at the meeting, stated that it was unfair competition for the subdividers in the city when county subdividers were permitted to display large signs on their tracts.

After a general discussion the Council agreed that it was its policy to amend the necessary ordinance to permit the size of sign proposed in the new zoning ordinance during the interim period and requested that the City Manager work out the necessary legal arrangements for the revision of the existing ordinance.

DIVIDEND CHECK PRESENTED CITY BY STATE COMPENSATION INSURANCE FUND

City Manager Miller introduced Frank E. Burns, and Howard E. Brownson of the State Compensation Insurance Fund, who presented a dividend check to the City for \$7,836.32 for the year 1952-53, representing a saving of 53% of the annual premium. Mr. Burns stated that this savings to the city was brought about due to the operation of the city's safety program. He presented a letter of commendation to the City Manager for the city's efforts in setting a high standard of safe operation in the community. Mr. Brownson commended the city management for the cooperation received on all suggestions for improvement of safety conditions.

The City Manager attributed the success of the safety program to Assistant City Manager Shelton and Bernice Mitchel, Personnel Technician, who had charge of the program, and to the safety committee. Mayor Marks introduced

RESOLUTION NO. 54-117

seconded by Councilman Merrill, commending City Manager Miller, Assistant City Manager Shelton and Bernice Mitchel, Personnel Technician and all those who had assisted in the safety program and made it possible for the city to receive the large savings in its workmen's compensation insurance premium, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

AWARD BID ON TWO DEEP WELL PUMPS TO WESTERN PUMP COMPANY

Director of Public Works Ray reported that he had concluded checking on the equipment offered by Western Pump Company, the low bidder for two

deep well pumps, and recommended that the bid of \$3,454.15 for unit #1 and \$4,340.05 for Unit #2 be accepted. Councilman M. Adams introduced

RESOLUTION NO. 54-107

seconded by Councilman Arata, accepting the bid of the Western Pump Company for the furnishing and installation of two deep well pumps to be located at pump stations No. 1 and No. 17, as recommended by the Director of Public Works and authorizing the execution of contract agreement, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

APPROVE SPECIFICATIONS AND AUTHORIZING CALLING FOR BIDS FOR TWO SAND TRAPS

The City Manager presented specifications and proposal for the furnishing of two sand traps to be furnished and delivered to the Seventeenth and G Streets and Roosevelt Park pump stations, for the consideration of the Council.

The Director of Public Works reported that a minor change in the minimum specifications had been made which deleted the wording "of A7 steel" and the specifications now provided "that the traps shall be constructed in accordance with the ASME Code only," Councilman R. Adams introduced

RESOLUTION NO. 54-108

seconded by Councilman Merrill, approving the specifications as amended for the furnishing of two sand traps and authorizing the calling for bids, to be opened at 2:00 P. M., May 3, 1954, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

HEARING ON PROPOSED AMENDING OF ZONING ORDINANCE NO. 700-N. S. REGARDING THE PROCEDURE FOR AMENDING SAID ORDINANCE

The hearing scheduled for 4:30 P. M., this date, on the proposed amending of Zoning Ordinance No. 700-N. S. to provide that only one public hearing each must be held by the Planning Commission and the City Council to conform to the provisions of the Planning Act of 1953, was declared open by Mayor Marks. No oral or written protests were filed. Mayor Marks declared the hearing closed. Councilman Merrill moved the introduction and passage to print of

ORDINANCE NO. 1123-N. S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N. S. OF THE CITY OF MODESTO ENTITLED (ZONING ORDINANCE) AS AMENDED, BY AMENDING SUBSECTION (a) and (b) OF SECTION 19 THEREOF" which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

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HEARING ON PROPOSED AMENDING OF ZONING ORDINANCE NO. 700-N. S. ZONING CROWS LANDING ROAD INDUSTRIAL DISTRICT

The hearing for 4:45 P. M. this date, on the proposed amending of Zoning Ordinance No. 700-N. S. to provide for the zoning of the recently annexed Crows Landing Road Industrial District into the M.L (Industrial) District, was declared open by Mayor Marks. No oral or written protests were filed. Mayor Marks declared the hearing closed. Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 1124-N. S.

entitled: "AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 700-N. S., AS AMENDED, BY ADDING USE DISTRICT MAP NO. 10 THERETO FOR THE PURPOSE OF ZONING THAT CERTAIN TERRITORY IN THE CITY OF MODESTO KNOWN AS THE "CROWS LANDING ROAD INDUSTRIAL DISTRICT", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

ORDINANCE RESCINDING ORDINANCE NO. 1104-N.S. AUTHORIZING SALE OF PORTION OF COLLEGE VILLAGE ADDITION #2 TO DALTON P. ELLIS

The City Manager reported that Mr. Dalton P. Ellis had advised that he would be unable to purchase the city's three acre parcel in College Village #2 Addition, as originally agreed when plans for its development as a park were abandoned. He suggested that the Council rescind Ordinance No. 1104-N.S., authorizing the sale of the property to Mr. Ellis. Councilman M. Adams moved the introduction and passage to print of

ORDINANCE NO. 1125-N.S.

entitled: "AN ORDINANCE REPEALING ORDINANCE NO. 1104-N.S. OF THE CITY OF MODESTO ENTITLED "AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY TO DALTON P. ELLIS BY THE CITY OF MODESTO", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

Councilman Arata introduced

RESOLUTION NO. 54-109

seconded by Councilman Merrill, approving the agreement between the City of Modesto and Dalton P. Ellis, releasing and waiving the city from any obligation to retain, develop or use for park purposes all or any portion of Block 6715 in College Village #2 and authorizing execution of agreement by authorized city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

AUTHORIZE TRANSFER OF FUNDS FROM FIRE BOND FUND TO BOND REDEMPTION AND INTEREST FUND

Upon the recommendation of the City Manager, Councilman Merrill introduced

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RESOLUTION NO. 54-110

seconded by Councilman R. Adams, authorizing the transfer of the unexpended balance of \$84.85 of the Fire Bond Fund to the Bond Redemption and Interest Fund in accordance with section 43638 of the Government Code of the State of California, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

SET DATE HEARING REQUEST OF SERVICE STATION ENGINEERING COMPANY FOR APPEAL FROM PROVISIONS OF SECTION 5 OF ORDINANCE NO. 1086-N.S. (FEES FOR CURB CUTS)

A request for an appeal from the provisions of section 5 of Ordinance No. 1086-N.S., regulating fees for curb cuts, was filed by the Service Station Engineering Company in regard to the service station recently constructed for John Quaresma at the northwest corner of Tully Avenue and Roseburg Avenue. Councilman M. Adams introduced

RESOLUTION NO. 54-118

seconded by Councilman Merrill, setting the time of 7:40 P.M., April 28, 1954 at the Council Chambers, as the time and place for the hearing on the appeal of the Service Station Engineering Company from provisions of Section 5 of Ordinance No. 1086-N.S., as related to fees for curb cuts, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

FURTHER DISCUSSION ON RESOLUTION OF PARKING AUTHORITY RE: PARKING PROGRAM

Councilmen R. Adams and M. Adams reported on the meeting with the Parking Authority to clarify the intent of its resolution No. 24, for 1) hiring of a traffic engineer, and 2) amending resolution No. 54-59, setting forth the basic principles to govern the activities of the Authority, to permit the purchase of off-street parking facilities without private participation.

Councilman R. Adams stated that the urgent need in getting a parking program started was the prime consideration of the Authority in requesting that the resolution be amended. The Authority is most anxious that a traffic engineer be hired as soon as possible to be responsible for working out the over-all parking program. A desirable parcel of property is presently available to the Authority, he stated, which would fit into the over-all parking program. A general discussion was held by the Council on the advisability of amending Resolution No. 54-59, so that the funds, presently available to the Parking Authority, approximately \$103,000, which were collected on the old 50%/50% allocation basis, could be used to purchase the property without private participation, since the new 75%/25% allocation basis would not be effective until July 1, 1954.

Councilman R. Adams suggested that the Authority be permitted to acquire the property without private participation but that the development of the property require private participation. The Authority feels that the Council would have every right to return to the old 50% basis, he stated, if there is no private participation. When the request was made by the Authority "to acquire, develop and operate, without private participation off-street parking facilities if detailed studies indicate such a facility will be self amortizing over a reasonable period of time", Councilman R. Adams stated, "a period of 10-15 years, not 25-30 years had been considered."

Mayor Marks pointed out that if all the present funds were used

in the purchase of the property now under consideration that a new method of financing the down payment on the over-all parking program would have to be worked out.

City Manager Miller submitted copies of a report covering the differences in the proposal of the Authority in its resolution No. 24 and the basic principles submitted by the Council relating to private participation. It was suggested that the Council consider separately items 1-4 inc. in the Authority's resolution which related to the hiring, on a participation basis, of a traffic engineer. It was agreed by the Council that the conditions set forth in the resolution were satisfactory and Councilman Arata introduced

RESOLUTION NO. 54-114

seconded by Councilman Merrill approving the conditions as set forth in items 1 to 4 inc. of Resolution #24 of the Parking Authority, for the employment of a traffic engineer on a cooperative basis, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

Councilman Arata introduced

RESOLUTION NO. 54-115

seconded by Councilman M. Adams, amending Paragraph I, General sub-paragraph A, Private Participation of Resolution No. 54-59 entitled: A RESOLUTION STATING THE BASIC PRINCIPLES TO GOVERN THE ACTIVITIES OF THE CITY OF MODESTO PARKING AUTHORITY IN CONDUCTING AN EXPANDED OFF-STREET PARKING PROGRAM", as follows:

A. Private Participation No public funds shall be expended for the acquisition and development of any parking facility unless the property owners and/or merchants make arrangements with the Authority to participate in the cost thereof in an amount which shall be not less than twenty five per cent of the total cost of acquisition and development of any such facility. Such funds may be raised either by voluntary contribution or by means of assessment district procedures, as the circumstances require. In this connection it shall be the full responsibility of the Authority to determine that each proposed facility is properly located in the public interest, and no offer of a merchants and/or property owner group shall bind the Authority to acquire any site which it determines is not in the public interest and general welfare. Provided however that with those funds which accrue through June 30, 1954 from the present 50% allocation of gross on-street meter revenue, the Parking Authority may acquire land for parking sites without private participation, but may not use any public funds for the development of any parking facility unless benefitted property owners and/or merchants make arrangements to participate in the cost of the acquisition and development of such a facility in an amount which shall not be less than twenty five per cent of the total cost of such acquisition and development.

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Merrill and Mayor Marks  
Noes: Councilmen: Mellis  
Absent: Councilmen: Annan

Councilman Mellis stated he voted "no" because "he felt that this would emasculate the whole parking program, that there would not be  
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sufficient money left to finance the balance for the size parking program which he feels is necessary."

GRANT PERMIT TO CHARLES SAUNDERS FOR TWO 34 FOOT CURB CUTS ON PROPERTY  
CORNER BRADY AND ENSLEN AVENUE

Charles Saunders, owner of property in Block 720, corner Enslen and Griswold Avenues, 300' x 240' in size, appeared before the Council and requested a variance from the provisions of Ordinance No. 1086-N.S., to permit driveways extending 34 feet to permit an easier approach to his property. The City Manager pointed out that it would not set a precedent if the Council granted this request on the basis that the frontage on both streets was so extensive. Councilman Merrill moved, seconded by Councilman Mellis, and it was unanimously carried, that permit be granted to Mr. Saunders to extend both driveway approaches to a total of 34 feet each.

DISCUSS REQUEST OF GEORGE SARKISIAN FOR LOWERING OF AGE LIMIT REQUIRED TO  
ENTER POOL HALL

George Sarkisian, operating George's Pool & Billiard Hall, 910 I St., appeared before the Council to protest the recent enforcement of the provisions of the city's ordinance which prohibited the operator of a pool or billiard hall to allow any person under the age of 21 years to enter his place of business. He stated that this would cause him to close his place of business since all his patronage was from boys between the ages of 16-18 years. He requested that the age limit be lowered to 16 years. His business, he stated, was more of a recreation center since no liquor was sold or cards played there.

Mrs. Geresi stated that the boys felt that they were being discriminated against. She pointed out that at no time had there been any trouble at the hall, that it kept the boys from congregating on street corners. She pointed out that most of the boys between the ages of 18-21 were presently in the service. She suggested that the type of business be changed from pool and billiard room to recreation center and that the ordinance be amended to permit the 16-18 year old boys to patronize the center.

Jerry Marsh operating the Modesto Bowl, suggested that if the ordinance could not be amended, lowering the age limit, that consideration be given to classifying the pool halls in three classification. Councilman Mellis asked Mr. Marsh if he would not be jeopardizing his whole business by permitting boys to play pool even if liquor was not permitted in the billiard room of his business.

Police Chief Neel stated that it had been the practice of the Police Department for a number of years, to not have any specific age limit as long as the places "were kept on an even keel". He reported on the various concerns in the city which operated pool halls. He also reported on the practices of various other cities.

The City Manager pointed out that the city ordinance established the age at 21 years. The matter before the Council was, "is there some basis on which the age limit could be reduced under certain circumstances."

Police Chief Neel stated that he had talked with the Probation Department and there was some legal question whether lowering of the age limit locally would be in conflict with the State Welfare and Institutions Code. It was agreed by the Council that a check be made with the Judge of the Juvenile Court and the Chief of the Probation Office to determine the legal status.

ACCEPT DEED FOR WIDENING OF COLLEGE AVENUE FROM HARRY F. MUNDT, ET UX

Upon the recommendation of the City Manager, Councilman R. Adams introduced

RESOLUTION NO. 54-111  
seconded by Councilman Merrill, accepting a grant deed from Harry F. Mundt and Ida C. Mundt on a portion of property to be used in the widening

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21

of College Avenue, and dis:  
the Recorder of Stanislaus:  
by the following vote:

Ayes: Councilmen: M. Adan  
Noes: Councilmen: None  
Absent: Councilmen: Annan

ks

COMMUNICATION FROM CITY AT

A card from All  
was read.

ACCEPT UTILITY EASEMENT FROM CLARENCE WATSON

Upon the recommendation of the City Manager, Councilman Mellis  
introduced

RESOLUTION NO. 54-112

seconded by Councilman Arata, accepting utility easement agreement from  
Clarence Watson on a 40 foot strip of land to be used in the south section  
of the west trunk sewer line; authorizing the recording of the agreement  
with the Recorder of Stanislaus County, and authorizing payment of severance  
damages in amount \$2000 to Mr. Watson, which resolution was regularly adopted  
by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

PRELIMINARY REPORT ON AUDIT OF SALES AND USE TAX AND BUSINESS LICENSE TAX

Copies of a "Preliminary Report on Audit of Sales and Use Tax  
and Business License Tax", prepared by the Director of Finance, were  
distributed to the Council members for their study.

Mayor Marks stated that the city's independent auditor, C.D.  
Nattinger, was most enthusiastic about the splendid job being done in the  
Finance Department. The Council agreed that no further report would be  
necessary from the City Manager and Finance Director on the recommendations  
and comments made by Mr. Nattinger in his audit of the records of the  
1952-53 fiscal year.

APPROVE REORGANIZATION OF PUBLIC WORKS DEPARTMENT AS PROPOSED BY LOUIS J.  
KROEGER & ASSOCIATES

Councilman M. Adams stated that he had checked the points which  
were not clear to him in the reorganization of the Public Works Department,  
as proposed by Louis J. Kroeger & Associates, and moved, seconded by  
Councilman R. Adams, and it was unanimously carried, that the proposed  
reorganization of the Public Works Department into five divisions, Airport,  
Engineering, Construction & Maintenance, Service and Sewage Treatment, be  
approved in principle.

The City Manager reported that the ordinance affecting this  
reorganization would be prepared and submitted to the Council for its  
consideration.

REPORT ON REVISED PROCEDURE FOR PARK RESERVATIONS

Copies of a report prepared by Lloyd T. Lowrey on "Reservation  
of Parks Picnic Facilities", were distributed to the Council members for  
their study and consideration at the next Council meeting.

of College Avenue, and directing the City Clerk to record the deed with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

COMMUNICATION FROM CITY ATTORNEY ALLEN GRIMES

A card from Allen Grimes, City Attorney from Scott Air Force Base, was read.

ACCEPT UTILITY EASEMENT FROM CLARENCE WATSON

Upon the recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-112

seconded by Councilman Arata, accepting utility easement agreement from Clarence Watson on a 40 foot strip of land to be used in the south section of the west trunk sewer line; authorizing the recording of the agreement with the Recorder of Stanislaus County, and authorizing payment of severance damages in amount \$2000 to Mr. Watson, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

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Mayor Marks stated that the city's independent auditor, C.D. Nattinger, was most enthusiastic about the splendid job being done in the Finance Department. The Council agreed that no further report would be necessary from the City Manager and Finance Director on the recommendations and comments made by Mr. Nattinger in his audit of the records of the 1952-53 fiscal year.

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The City Manager reported that the ordinance affecting this reorganization would be prepared and submitted to the Council for its consideration.

REPORT ON REVISED PROCEDURE FOR PARK RESERVATIONS

Copies of a report prepared by Lloyd T. Lowrey on "Reservation of Parks Picnic Facilities", were distributed to the Council members for their study and consideration at the next Council meeting.

PROGRESS REPORT ON DOWN-TOWN LIGHTING DISTRICT

The City Manager reported that the down-town lighting district program was proceeding, that the Chamber of Commerce had appointed two other members on its committee; and that the only objections were from those who were left out of the proposed district.

REPORT BY CITY MANAGER ON PUBLICITY ON NEW GARDEN REFUSE PICK-UP SERVICE AND WATER USE

The City Manager reported on the proposed publicity program on the new garden refuse pick-up regulations and also use of water for yards. It was agreed that discretion should be used in enforcing the new refuse pick-up service regulations.

REPORT ON REFURBISHING OF CITY SIGN AT NINTH AND I STREETS

The City Manager reported that the work on refurbishing of the "Water-Wealth-Contentment-Health" sign at Ninth and I Streets would commence immediately and that if any Council member had any suggestions to submit them as soon as possible.

REPORT ON EFFORTS TO REOPEN THE PACIFIC GRAPE PRODUCTS CANNERY

Bill Carlson, a grower, representing the Pacific Grape Products Company appeared before the Council and reported on the efforts of the company to secure financial backing so that the Reconstruction Finance Corporation would not foreclose the company's cannery on Grand Street. He stated that it would be necessary to raise an additional \$33,333 to satisfy the conditions of the R.F.C. for the reopening of the cannery. Mayor Marks suggested that Mr. Carlson contact the Chamber of Commerce.

REPORT ON CIVIL DEFENSE COMMAND POST EXERCISES

The City Manager announced that the Region Four Command Post exercises would be held Sunday, April 25 from 7-4 P.M., with headquarters at the Sheriff's office and invited members of the Council to see the exercises.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 6:00 P.M.

  
ATTEST: REX E. GAILPUS, CITY CLERK

April 27, 1954

The Council of the City of Modesto met in adjourned session this date at 7:30 p.m.

Present: Councilmen: Mellis, R. Adams, Arata, Mayor Marks.

Absent: Councilmen: Merrill, M. Adams, Annan.

PUBLIC HEARING ON PROPOSED ZONING ORDINANCE:

This being the time and place set for the public hearing continued from April 20, 1954, on the proposed new zoning ordinance for the City of Modesto, the hearing was opened by Mayor Harry Marks.

Mayor Marks read the following written communications:

1. Letter from the Western Oil and Gas Association endorsing the new zoning ordinance in general and requesting consideration of changes in some of its provisions.

2. Letter from Chet Spearing, 149 Covena Avenue, describing practice in Salinas of providing parking in outlying areas and transporting customers by bus to downtown shopping center, and expressing belief that too much ground set aside for parking down town might curtail development.

3. Letter from Earl A. Holtham, 406 Beaty Building, protesting the requirements of Section 1511, and subsequent sections pertaining to parking, on the grounds that they might prove unenforceable and might decrease rather than increase property values in the downtown area, and making other suggestions.

Mayor Marks advised that he had given to the City Manager, for distribution to those who had requested copies, a resume of the suggestions and alternatives brought out at the April 13 meeting with regard to parking. He briefly summarized its contents, and presented for consideration a later and more detailed version of the same proposal, the important points of which were:

1. To assure provision of adequate parking space as development occurs, standards would be set up in the zoning ordinance to apply in areas outside the central business district;

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2. Since provision of equivalent parking space might be prohibitive in more congested areas, provision of 75 per cent of the zoning ordinance requirements would be required in the central business district, other than the "hard-core" area;
3. In the "hard-core" metered area of the down-town district, three alternative means of providing the required parking would be available:
  - a. Provision of 50 per cent of the standard requirements, or
  - b. Participation in a parking district to the extent of 25 per cent, or
  - c. Payment of an equivalent amount in cash.

Mayor Marks stated that the only objections he had heard were from the central business district, that those objections were well on the way to being cleared, and that he believed the matter had been carried through the necessary preliminary discussion phase and was now being approached on a factual basis. He pointed out that the amount of real property taxes paid by the property owners in the "hard-core" metered area was about \$100,000 a year (about 10% of the total property tax of the city and about 5% of the total city revenue) and that the amount now proposed to be returned to this area by the city from parking meters through parking participation was between \$55,000 and \$60,000 per year.

Mr. Robert Bomberger expressed general approval of the proposal suggested but asked how a builder of a new building would be able to gauge what his 25 per cent participation would be if there were no parking district existing when he wished to build. Mayor Marks stated it was his suggestion that a parking district for the downtown area be formed as soon as possible after agreement had been reached on parking requirements of the ordinance.

Mr. Bomberger asked whether, after a parking district had been formed and paid itself out, the requirements to be met then by the owner of a proposed new building would be any different. Mayor Marks said that experience so far indicated there was never sufficient parking in the central core and that developing needs beyond those

filled by downtown parking lots could be met by building higher levels on the lots. He said that Modesto was fortunate in still being able to get good locations for parking and that he believed downtown property so served would increase many times in value.

Mr. Bomberger said he believed tremendous strides had been made within the last 60 days toward formulating a practicable program; however, he suggested that the "heart" district might be omitted from the zoning provisions since a parking program would probably be under way before the zoning ordinance went into effect. Mayor Marks said he didn't think it was feasible to omit one area from coverage by the ordinance, since other areas would feel it was unfair. Mr. H. W. Huls stated he believed exempting the central business district from the ordinance would be a mistake.

Attorney Grimes cited Section 1515 of the ordinance, which provides for exemption from ordinance requirements under certain conditions, No. 4 of which is institution of active procedure to assure adequate parking facilities in the area.

Mr. Boundey stressed the usefulness of accurate knowledge of actual present income from and present percentage of capacity use of city-owned parking lots, and the need for educating all-day parkers to use the less centrally located areas.

Mr. Halley, representing Stanislaus County Title Company, Merrill Munson, and Tucker Estate, asked what the procedure would be if the proposed parking district for the downtown area was rejected by the property owners and a store did not have the required land for parking available. He also stated that he believed the wording of the alternative means of providing parking in the metered area was misleading--that Item 3 "payment of the equivalent in cash of one of these" really meant payment in cash of the equivalent of Item 2, since payment of cash in the equivalent of Item 1 seemed obviously prohibitive. After general discussion it was agreed that this would be true in most cases. It was also agreed that the question of payment of an amount equivalent to the value of 25 per cent participation needed clarification as to the basis of computing the amount.

Attorney Grimes suggested there might be another alternative based on the payment of an amount equivalent to so many dollars per parking space, the number of spaces for which an individual owner would be responsible to be computed according to the zoning ordinance requirements for his area.

There was general discussion of the special problems created by grocery stores, restaurants, hospitals, etc., in the congested areas, the steps necessary to perpetuate existing parking uses, and the justification for and limitations of any city action in matters of private concern.

Mr. Ott, Planning Director of Stockton, discussed the problem of providing for additional parking needs created in the future by new construction or structural alterations which generated additional traffic, and pointed out that parking lots established on the proposed basis not only created new values in a district but brought in new revenues which might be used to provide additional stories on those lots as needed.

Attorney Grimes stressed the fact that the zoning ordinance requirements are directed to the future, the parking program to the immediate present.

Mr. Boundey asked if a tentative map might be prepared showing the three proposed parking areas which had been discussed.

Mr. Halley requested that the clarification of the section regarding payment of equivalent sums be prepared, if possible, in time for distribution to interested people before the next meeting so they could study it ahead of time.

Mayor Marks stated that there seemed to be general acceptance of the provisions except for that item, that specific problems were bound to be raised by individual circumstances but the mechanics of each could be worked out with equity, and that next week's meeting would be the final hearing on this portion and would also cover the matter of utilities.

Mr. L. S. Chappellear, of the Western Oil and Gas Association, having arrived, his letter, which had been read at the first of the

meeting, was discussed. Mr. Chappelle suggested a proposed definition for service stations for inclusion in the ordinance; expressed concern that the provisions of the ordinance (Sections 1503, 1609) not infringe upon those of the sign and billboard ordinance recently adopted; and urged that Section 1611 be clarified as to its application to service station buildings, and consideration be given to permitting bulk petroleum plants in the light industrial zone.

Mayor Marks advised Mr. Chappelle that his suggestions would be given careful consideration and that he would be advised by letter when the zoning map would be presented for study.

Upon a duly seconded motion to adjourn, Mayor Marks announced that the hearing would be adjourned to Tuesday, May 4, 1954, at 7:30 p.m., in the City Council Chambers at which time the final discussion on parking provisions will be held, and the matter of utilities will be considered.

The hearing was adjourned at 9:30 p.m.

ATTEST:  REX E. GAILFUS, CITY CLERK

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April 28, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M., in the Council Chambers of the City Hall, 717 Tenth Street, as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks

Absent: Councilmen: M. Adams

Invocation was given by Rev. J. H. Becker of the Geneva Presbyterian Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the adjourned meeting of April 20, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### OFFICERS RALPH MAYBEE AND C. A. BOUCHER COMMENDED ON COMPLETION OF TRAINING COURSE AT ST MARY'S COLLEGE

Police Chief Neel presented Officers Ralph Maybee and C. A. Boucher, who had recently completed a five weeks basic training course in various phases of police work at St. Mary's College. He stated that Officer Maybee had placed fifth and Officer Boucher seventh, in the class of 37.

Mayor Marks commended the officers for their excellent work on behalf of the Council and the citizens of the city.

#### REQUEST OF MILITARY ORDER OF THE PURPLE HEART INC. TO DISPLAY WAR WEAPONS

The request of the National Field Exhibits department of the Military Order of the Purple Heart, Inc., to display war weapons in Modesto was held over for consideration until the position of the local chapter of the organization had been determined.

#### REQUEST FOR REMOVAL OF TREES--EVERETT G. WOODWORTH AND HAZEL MEAKIN

Requests from Everett G. Woodworth to remove a sycamore tree at 215 McHenry Avenue, and Hazel Meakin and Nora Kennedy to remove two silver maple trees at 1425 Tenth Street, were considered by the Council.

Councilman Merrill stated that it was his opinion that the Park Department now had the "pulse" of the Council in relationship to tree removal and he moved that all future requests for tree removals be handled administratively, which was seconded by Councilman Arata and unanimously carried.

Since the tree at 215 McHenry Avenue was situated in front of the area at which a proposed driveway was to be constructed, Park Superintendent Lowrey recommended its removal. He stated that the two trees at 1425 Tenth Street were in good condition and that there were similar trees across the street in front of another used car lot so he would not recommend the removal. However, he stated, eventually all large trees of this type in the down-town area might be removed to allow for the expansion of the business district. He suggested that if removal of the trees was granted that the owners assume the expense and that the city replant with ornamental type trees.

Mel Cardwell, operating a used car lot on the Meakin and Kennedy property, who was present, stated that the sap from the trees necessitated

daily washing of cars, which was costly, and that the trees obstructed his sign.

Councilman Merrill moved, seconded by Councilman R. Adams, and it was unanimously carried, that permit be granted to Mrs. Meakin and Mrs. Kennedy to remove the two trees at 1425 10th Street, at their own expense and that the city replant ornamental trees.

The City Manager pointed out that the granting of the requests for the removal of these trees would establish a precedent in the downtown area. It was agreed by the Council that it would be its policy to permit the removal of large trees in the business area at the owners expense and that ornamental trees be planted at the city's expense.

GRANT PERMIT TO BORDEN'S DAIRY DELIVERY COMPANY TO OPERATE "ELSIE'S GOOD FOOD TRAIN" OVER THE CITY STREETS

John R. Wenger, Manager of the local Borden's Dairy Delivery store, filed a request for permission to operate "Elsie's Good Food Train" over the city streets for a period of 10 days, beginning May 20. The criteria for the granting of requests of this type, as established in Ordinance No. 1111-N.S., was reviewed by the City Attorney.

After a general discussion by the Council on the matter of parking of the train on the streets and the routes the train would use through the city, Councilman Annan moved, seconded by Councilman R. Adams, that permission be granted to Borden's Dairy Delivery to display "Elsie's Good Food Train" in the city between the date of May 20-30, with the stipulation that the applicant hold the city harmless from and against any and all costs, damages and liability arising out of the use of the city streets, and that the company clear with the Police Department, Mayor Marks declared the motion carried.

Mayor Marks stated, "I voted no because I do not think the city streets should be used for such commercial advertising."

HEARING ON APPEAL OF THE SERVICE STATION ENGINEERING COMPANY FROM PROVISIONS OF SECTION 5 OF ORDINANCE NO. 1086-N.S. (FEE FOR REPLACEMENT OF CURBING IN COMMERCIAL AND INDUSTRIAL AREAS)

Mayor Marks declared the hearing open for the consideration of the appeal of the Service Station Engineering Company from the provisions of Section 5 of Ordinance No. 1086-N.S., relating to the fee for replacement of curbing in commercial and industrial areas.

City Attorney Grimes summarized the appeal filed by the Company which related to a fee of \$324 paid for curb cuts at the station built for John Quaresma and leased by the Tidewater Associated Oil Company on the northwest corner of Roseburg & Tully Avenues.

In the general discussion held by the Council, it was brought out that,

- 1-At the time the ordinance was considered, it had generally been agreed that there would be no waiving of the fee for curb cuts, since it was to assure the closing of curbs, when and if necessary.
- 2-That under the provisions of the ordinance it could be stipulated that the payment of the fee by the contractor instead of the owner or lessee, "created a hardship" and that the applicant had been "aggrieved"
- 3-That the posting of a surety bond, instead of cash, as proposed by the applicant, would be unsatisfactory, due to the extensive period of time.

Robert B. Morrow, representing the company, stated his company had had no knowledge of the ordinance requirements at the time its bid was submitted to Mr. Quaresma on the station. He called attention to the letter attached to the appeal, signed by John Quaresma, agreeing to replace the curb and sidewalks at his own cost when and if the driveways were no longer needed. He pointed out that since the service station was located in a fast developing area and because it had been leased for a ten year period to the oil company, with an option for renewal of 5 years, that it would be a hardship for his company to leave this deposit on file for such a long period of time and he urged that the Council consider the agreement of Mr. Quaresma as surety.

The City Manager stated that in his judgment the appeal should not be made on the basis of the ordinance since there was never any intention that the appeal provision apply to the fee.

The City Attorney stated that it was a matter of interpretation of the ordinance to what extent the appeal provision goes.

Mayor Marks declared the hearing closed.

Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried that the Council finds that the appellant has not undergone an unnecessary hardship and for that reason the appeal from the decision of the Director of Public Works, is denied.

It was agreed by the Council that a further study should be made of the ordinance by the City Attorney to determine whether it would be necessary to amend the ordinance to preclude such a situation.

#### HEARING ON PROPOSED ANNEXATION OF McHENRY VILLAGE ADDITION

This being the time set for the hearing of protests to the proposed annexation of the McHenry Village Addition, Mayor Marks declared the hearing open.

The City Clerk reported that no written protests had been filed.

No oral protests were filed and Mayor Marks declared the hearing closed. Councilman Arata moved the adoption and passage to print of

#### ORDINANCE NO. 1126-N.S.

entitled: "AN ORDINANCE ANNEXING UNINHABITED TERRITORY KNOWN AS THE McHENRY VILLAGE ADDITION TO THE CITY OF MODESTO", which motion being duly seconded by Councilman Annan, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

#### HEARING ON APPEAL OF D. L. CURTICE-USE PERMIT FOR REAL ESTATE AND INSURANCE OFFICE, 1519 ENCINA AVENUE

This being the time set for the hearing on the appeal of Donald L. Curtice from the conditions stipulated by the Modesto City Planning Commission in the use permit to operate a real estate and insurance office at 1519 Encina Avenue, Mayor Marks declared the hearing open.

Planning Director Bills summarized the facts which were as follows:

- 1- Mr. Curtice was operating a real estate and insurance office with associates and employees, in an R-1 Zone.
- 2- Prior to the time Mr. Curtice purchased and remodeled the property (1950) one room only of the house had been used by the former owner, C. E. Shultz Jr., in connection with his building contracting business, which was permissible in an R-1 district, as home occupancy. Mr. Schultz had used the land in 1950 for storage of building materials and under both the city and county ordinances, such use of the land is terminated when there is a change of ownership.
- 3- Under the county ordinance Mr. Curtice was required to have a use permit for any use of his dwelling and property for business, which he had not secured prior to annexation.
- 4- That the only possible commercial use of this property at the time it was annexed to the city (Nov. 1953), was the use of one room for an office, as a home occupancy, without employees or associates.

Mr. Curtice stated that the county's zoning ordinance was not effective until 1952 and that he had purchased the property in 1950. Mr. Bills pointed out that the county land use ordinance had been adopted in 1948 and that it was necessary to obtain a use permit at the time he purchased the property.

Mr. Curtice contended that he had been licensed by the state to operate at this location in 1951-52. He filed a petition, signed by 54 property owners in the immediate area of 1519 Encina Avenue, purporting that they did not object to the operation of Mr. Curtice's business at this location.

The City Manager pointed out that Mr. Curtice's request to the Planning Commission for permission to continue his operations with employees and associates, could not be granted since the Commission had no authority to grant a C-1 use in an R-1 area and that this business could not lawfully continue at this location unless it was a lawful non-conforming business at the time of annexation; otherwise the ordinance must be amended to rezone the property to permit it.

The City Attorney pointed out that from the evidence submitted and the testimony given at this hearing that it would seem to indicate the business was not a lawful non-conforming use at the time of the annexation.

The City Manager reviewed the stipulations in the Commission's resolution No. 122, adopted April 6, which granted a use permit to operate a real estate and insurance office, as a home occupation, for a period of one year to expire April 6, 1955, and which required that the existing use be terminated by May 6, 1954.

Councilmen R. Adams and Mellis pointed out that Mr. Curtice had bought the property in good faith that he could operate his business at this location, that the neighbors did not object, that he had improved the property, that the Council might have a moral obligation to permit him to continue his operation,

It was suggested by the City Manager that the effective date of May 6, established by the Planning Commission, for the discontinuance of the present type of business operation, be extended for a period of 30 days to June 6, 1954 so that the hearing be held over for a further check.

Councilman Merrill introduced

RESOLUTION NO. 54-120

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seconded by Councilman Annan, extending the time for the termination of the existing use of the real estate and insurance office by Mr. Curtrice at 1519 Encina Avenue, as set forth in paragraph 6 of Resolution No. 122, adopted by the Planning Commission on April 6, 1954, from May 6, 1954 to June 6, 1954, setting the date for further consideration of the appeal as 8:00 P.M. May 12, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams.

REQUEST FOR WAIVING OF RENTAL FEE FOR YOUTH CENTER---MENTALLY HANDICAPPED CHILDREN OF STANISLAUS COUNTY ASSOCIATION

A request from the Mentally Handicapped Children Association of Stanislaus County that the rental fee for the Youth Center be waived for its benefit Folk & Square Dance, which is being held on May 22, was considered.

The City Manager suggested that requests for the waiving of the established rental fees for the center not be allowed, and that the schedule of fees set by the Council be followed.

Councilman R. Adams stated that he would personally assume the rental fee for this activity.

REQUEST OF MODESTO AREA YOUTH FOR CHRIST TO CONDUCT "MILE OF PENNIES" PROGRAM

A request of the Modesto Area, Youth for Christ for permission to conduct a "Mile of Pennies" program in Modesto, Thursday, May 13, between 9 A.M. and 5 P.M., in the business district, for the purpose of raising funds to send boys to the summer camp, was considered.

Councilman Annan moved that the request be granted

The City Manager pointed out that if this request was granted, it would set a precedent for other organizations. He suggested, to which the Council concurred, that Mr. Ken Karraker, Bible Club Director of the organization, give the City Clerk the names of other cities where this drive had been held, so that a check could be made before the next meeting of the Council. Councilman Annan withdrew his motion.

PROPERTY OWNERS REQUEST OPENING OF STREET EAST OF TULLY ROAD AND SOUTH OF UCCELLO PROPERTY

A request signed by property owners, E. Pierceall, John Berry and Elaine Price, that a street be opened north of their property located between Tully Ave. and Como Way, and Roseburg and the Hardin Tract, so that their property could be more readily disposed of, was considered. Mayor Marks directed the Public Works Department to investigate and report.

REQUEST OF JUNIOR CHAMBER OF COMMERCE INSTALL SIGN AT LALOMA-BURNEY STREETS AND STREET BANNERS, ADVERTISING CALIFORNIA RELAYS

Tom Moore, representing the Junior Chamber of Commerce, appeared before the Council to request permission to install a billboard at the intersection of LaLoma & Burney Streets, for a period of approximately three weeks beginning April 29, to advertise the California Relays of May 22, 1954. He agreed that the sign would be removed immediately after the Relays. He also requested that the fire department assist in the installation of the banners in the business district. Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that permit be granted to the Junior Chamber of Commerce to install a billboard at the corner of LaLoma & Burney Street, providing that it is removed immediately after the relays, May 22, and that the city will be held

harmless from and against all costs, damages and liability arising out of the erection of the banners and display of the sign, and that the organization contact the City Manager regarding the installation of the street banners in the business district.

AUTHORIZE CALLING FOR BIDS FOR CURB AND GUTTER AT ROOSEVELT PARK

Specifications for the construction of curb and gutter at Roosevelt Park were filed by Director of Public Works Ray. Councilman Mellis introduced

RESOLUTION NO. 54-121

seconded by Councilman Annan, approving the specifications for the construction of curb and gutter at Roosevelt Park, authorizing the calling for bids to be opened at the City Council Chambers, May 17, at 2:00 P.M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

FINAL ADOPTION ORD. NO. 1121-N.S. CONVEYANCE OF AIRPORT PROPERTY AND EXECUTION OF AGREEMENT WITH CODDING CONSTRUCTION COMPANY

Ordinance No. 1121-N.S. entitled: "AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY BELONGING TO THE CITY OF MODESTO TO CODDING HOMES AND APPROVING THE EXECUTION OF AN AGREEMENT WITH CODDING HOMES FOR THE LEASE OF AN AIRPORT BUILDING TO BE CONSTRUCTED THEREON", having been heretofore introduced and ordered printed and published at the regular meeting of April 21, Councilman R. Adams moved, seconded by Councilman Merrill, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

FINAL ADOPTION ORD. NO. 1122--N.S. SUBLEASE OF BUILDING AT AIRPORT-SAM JONES

Ordinance No. 1122-N.S., entitled: "AN ORDINANCE PROVIDING FOR THE SUB-LEASE OF CERTAIN PROPERTY TO SAM JONES AND AUTHORIZING THE EXECUTION OF A SUB-LEASE AGREEMENT IN CONNECTION THEREWITH", having been heretofore introduced and ordered printed and published at the regular meeting of April 21, Councilman Arata moved, seconded by Councilman Annan that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill-Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

FINAL ADOPTION OF ORDINANCE NO. 1123-N.S. ESTABLISH NUMBER OF HEARINGS NECESSARY TO AMEND ZONING ORDINANCE

Ordinance No. 1123-N.S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N.S. (ZONING ORDINANCE) AS AMENDED BY AMENDING SUBSECTIONS (a) and (b) of SECTION 19 THEREOF", having been heretofore introduced and ordered printed and published at the regular meeting of April 21, Councilman Annan moved, seconded by Councilman R. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

FINAL ADOPTION ORD. NO. 1124-N.S. ZONING CROWS LANDING ROAD-INDUSTRIAL ADDITION AS M-1 INDUSTRIAL

Ordinance No. 1124-N.S. entitled: "AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 700-N.S. AS AMENDED, BY ADDING USE DISTRICT MAP #10, THERETO FOR THE PURPOSE OF ZONING THAT CERTAIN TERRITORY IN THE CITY OF MODESTO KNOWN AS THE 'CROWS LANDING ROAD INDUSTRIAL DISTRICT'", having been heretofore introduced and ordered printed and published at the regular meeting of April 21, Councilman Merrill moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

FINAL ADOPTION ORD. NO. 1125-N.S. REPEAL ORD. 1104-N.S. AUTHORIZE SALE OF REAL PROPERTY TO DALTON P. ELLIS BY CITY

Ordinance No. 1125-N.S. entitled: "AN ORDINANCE REPEALING ORDINANCE NO. 1104-N.S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY TO DALTON P. ELLIS BY THE CITY OF MODESTO", having been heretofore introduced and ordered printed and published at the regular meeting of April 21, Councilman Merrill moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

RESOLUTION APPROVING APPROPRIATION TRANSFER OF \$4,268 FROM GENERAL RESERVE TO PUBLIC WORKS DEPT.--PARKS DIVISION FOR ACQUISITION OF PARK-ASHFORD ADD'N

Upon the recommendation of City Manager Miller, Councilman R. Adams introduced

RESOLUTION NO. 54-122

seconded by Councilman Mellis, approving transfer of \$4,268 from the General Reserve to the Public Works Department, Park Division, being balance required for the purchase of land for park purposes from Boyce Ashford, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

The City Manager advised that an ordinance would be presented for the Council's consideration shortly which would appropriate the necessary funds from the Park Fund.

ORDINANCE AMENDING ORDINANCE NO. 1118-N.S. REGULATING THE INSTALLATION OF TELEVISION ANTENNAS

The City Attorney presented for the Council's consideration an ordinance amending Ord. No. 1118-N.S. (Regulation of installation of television antennas) providing for the minimum thickness for tubing for masts to be 16 gauge, as previously approved by the Council, Councilman Annan moved the introduction and passage to print of

ORDINANCE NO. 1127-N.S.  
entitled: "AN ORDINANCE OF THE CITY OF MODESTO AMENDING ORDINANCE NO. 1118-N.S. (TELEVISION ANTENNA INSTALLATION REGULATIONS) BY AMENDING SECTION (c) THEREOF", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

DISCUSSION ON PENALTY PROVISIONS OF BUSINESS LICENSE ORD. NO. 487-N.S.

A general discussion was held by the Council on the report previously submitted by the Director of Finance relating to the recent audits conducted on sales and use tax and business license mill returns. The City Manager stated that the question of the penalty provision of the business license ordinance relating to the additional tax resulting from these audits was the question raised by the merchants. Two merchants, he stated, had paid the additional amount due under protest. He asked whether the Council wished to consider waiving the penalty of 25% required by the business license ordinance on these audits, where there was no evidence of fraud on the part of the merchants.

D. W. Toquero, operating Lee Bros. Stationery Store, who was present recited the efforts of his company to determine from the city office, the proper method of making its reports. He protested the payment of the penalty charge since there was no intent of fraud and since every effort had been made to pay the proper amount due. He was advised by the Council to pay the charges levied under protest so that if an adjustment was agreed on by the Council in the future, reimbursement of same could be made to him.

The Council indicated its disapproval of the 25% penalty requirement in the business license ordinance, as being excessive, where there was no intent to defraud. Councilman Mellis recommended that the ordinance be amended to require only a 6% interest charge where audits indicated additional taxes due.

The City Attorney suggested that the Council consider uniformity with regard to delinquent penalty payments, in both the Sales and Use Tax Ordinance and the Business License Ordinance.

Councilman R. Adams stated, "I have felt for a long time that the present mill tax license ordinance is a gross injustice. I would like to suggest that the Council consider hiring a tax expert to recommend a more equitable and workable business license tax which will not be a burden to the merchants."

Director of Finance Lawrence stated that he would be reluctant to recommend the reduction of the penalty provision in the business license ordinance from 10% and 15% for delinquent licenses, since it would entail additional collections efforts. However, he stated, where there has been an audit and it has been determined that additional taxes are due and there was no intent to defraud, the waiving or reduction of the penalty provision would be in order.

Councilman Annan stated "the Council should take into consideration that the present mill tax business license is not right and that it should be supplanted in the near future with a more equitable tax, not with the idea of raising more money, but with the idea of a more equitable distribution."

It was agreed by the Council that the City Manager and City Attorney be authorized to prepare an amendment to the ordinance to make it more uniform with the sales and use tax ordinance.

ESTABLISH TWO HOUR PARKING ON 15th STREET BETWEEN H AND I STREETS

The City Manager reported that requests by property owners for the establishment of two hour parking on 15th Street, between H and I Streets, had been investigated by the Traffic Committee, which had recommended that limited parking be established at this location. Councilman Mellis introduced

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seconded by Councilman Annan, establishing two hour parking on both sides of 15th Street, between 9 A.M. and 6 P.M., between H and I Streets, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

APPROVE REVISED PROCEDURE FOR PARK RESERVATIONS

The Council indicated its approval of the proposed revised procedure for the reservation of picnic facilities in the city parks, as outlined in the report of Park Superintendent Lowrey previously distributed to the Council members for their study.

Mayor Marks commended Mr. Lowrey, who was present, for the splendid job he was doing all over the city and especially in the parks.

The City Manager was directed to present a resolution for the consideration of the Council at a later meeting, effecting the new reservation procedure.

ACCEPT DEED FROM WILLIAM MCK. STENAAS ON PROPERTY TO BE USED IN THE WIDENING OF COLLEGE AVENUE

The City Attorney presented for Council consideration a grant deed from William McK Stensaas and Mildred E. Stensaas, on a portion of land to be used for the widening of College Avenue. Councilman Annan introduced

RESOLUTION NO. 54-124

seconded by Councilman Merrill, accepting the grant deed, dated April 13, 1954 from William McK Stensaas and Mildred E. Stensaas, on property to be used in widening College Avenue and authorizing the recording with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

ACCEPT GRANT DEED FROM C. BOYCE ASHFORD AND FRANCES E. ASHFORD-WIDENING OF BOWEN AVENUE

A grant deed from C. Boyce Ashford and Frances E. Ashford on property to be used in the widening of Bowen Avenue, was presented for Council consideration. Councilman Arata introduced

RESOLUTION NO. 54-125

seconded by Councilman Mellis, accepting the grant deed from C. Boyce Ashford and Frances E. Ashford, dated April 1, 1954, and authorizing the recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

ACCEPT RIGHT OF WAY DEED FROM C. BOYCE ASHFORD AND FRANCES E. ASHFORD FOR UTILITY AND PUBLIC ROAD PURPOSES IN ASHFORD ADDITION

Councilman Mellis introduced

RESOLUTION NO. 54-126

seconded by Councilman R. Adams, accepting right of way deed, dated 4-28-54 pg. 9

dated April 1, 1954 from C. Boyce Ashford and Frances E. Ashford for utility and public road purposes over and across strip of land in the Ashford Addition and authorizing the recording of said deed with the Stanislaus County Recorder which resolution was adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

#### REPORT ON RELOCATION OF SOFT BALL FACILITIES BY CITY MANAGER

The City Manager reported that meetings had been held with representatives from interested groups on the location of additional soft ball facilities. Due to various objections, he stated, the lights and poles purchased by the city to be installed at Mark Twain school, had never been installed. Neighborhood objections indicated some delay in the plan to install a permanent additional facility at the new Junior College site on Coldwell Avenue.

The City Manager recommended that the Council consider the installation of the rest rooms on the new Junior College site as planned even though the field would be used on a twilight basis only for the next year or more as this would also serve the existing soft ball facility at the Junior College across Coldwell Avenue. He also suggested that the city enter into an agreement with the Modesto State Hospital to make available the city's light and poles, plus electrical supplies (estimated cost to city \$500), as needed to insure that the hospital's ball field will be available by May 24, the start of the softball season.

Ralph Tucker, representing the State Hospital, stated that the hospital would pay the electric bill, supply the man power to ready the field each day and clean up afterward, and that the night games would provide an excellent recreational-rehabilitational program for the patients at the hospital. Assistance has been offered by employees of the Modesto Irrigation District and by the Pacific Telephone & Telegraph Company in installation of the lights. Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried, that the plans for additional softball facilities as outlined by the City Manager be approved.

#### RESOLUTION RELATING TO CITY COUNTY FISCAL RELATIONSHIPS

Councilman R. Adams stated that two articles which had recently appeared in a local paper implicating that the city-county fiscal committee was having difficulty in its operation, were erroneous. "We have," he stated, "always worked in harmony and will continue to do so."

There are many joint fiscal matters yet to be resolved, he stated, but progress has been made by the committee. Although he had asked to be relieved from serving on the committee, he stated, he was certain that Councilman Mellis and Arata would continue cooperating to resolve many of the urgent problems. He read a resolution and moved its adoption, to clarify any misunderstanding which might have been created by these newspaper articles.

#### RESOLUTION NO. 54-119

seconded by Councilman Arata

1-Urging the committee to proceed promptly with the study of the care of city prisoners in the county jail so that any changes in the amounts paid by the city may be reflected in the budget now under preparation for the next fiscal year.

2-Urging the completion of the report of the sub-committee of the Stanislaus County City-County committee, established on June 22, 1953, to prepare a statement of principles under which city-county fiscal relationships would be considered so that such principles may serve as a basis for further consideration of county-city fiscal relationships.

3-That pending adoption of such principles the Council Committee be authorized to proceed in its negotiations with the representatives of the county on the basis of the principles of city-county fiscal relationships adopted by resolution of the City Council on Jan. 29, 1954, after discussion and consideration of these principles with all the members of the

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Stanislaus County Board of Supervisors.

4-That the Council believes that since this is a matter which concerns all of the cities of the county, their interests and points of view should be taken fully into account before any final decision is made.

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

DISCUSS PROPOSAL FOR DESIGNATION OF ADDITIONAL MAJOR CITY STREETS

The City Manager reported that due to annexation of new areas during the fiscal year 1953-54, it would be necessary to revise Resolution No. 9810 designating Major City Street in the City of Modesto to include additional streets. A map prepared by the Public Works Department designating the existing state highways, major city streets and the streets proposed to be added to the Major City Street system was reviewed by the Council. The City Manager was authorized to prepare for the consideration of the Council, a resolution including the recommended streets in the present major city street system.

REPORT BY POLICE CHIEF NEEL ON REQUEST OF GEORGE SARKESIAN TO AMEND ORDINANCE TO LOWER AGE LIMIT TO ENTER POOL HALL

The request of George Sarkisian that the city ordinance be amended to lower the age limit from 21 years to 16 years to permit a person to enter a pool hall, was reconsidered.

Police Chief Neel reported on a recent meeting attended by the Juvenile Judge of the Superior Court, representatives from the Sheriff's office, Probation office, City Council, the City Attorney and himself. He stated that a discussion was held on the relationship of the city ordinance to the Welfare and Institution Code, which provides in section 700 that "the jurisdiction of the juvenile court extends to any person under the age of 21 years who habitually visits, without parent or guardian a public billiard room or public poolroom"--- It was agreed, he stated, that the lowering of the age limit by the city would be inconsistent with the state code.

The Police Chief stated that in a number of other cities provisions have been made for persons 18 years and over to enter pool halls, which is reasonably enforced.

George C. Pettygrove, Attendance Officer at the Downey High School, opposed the lowering of the age limit as it would be a "competing influence" with school attendance.

Suggestions offered from the audience were "that no consideration should be given to the lowering of the age limit", and "the age limit should be lowered to 18 but not dropped lower than 18 years."

Attorney Grimes agreed that no amendment should be made to the city's ordinance lowering the age since such action would be inconsistent with the state law making it a matter of the juvenile court jurisdiction if any person under the age of 21 "habitually visits a public pool room."

Mr. Sarkisian pointed out that since his business depended entirely on boys between the ages of 16 and 18, he would lose what he had invested in his business.

DISCUSS FURNISHING OF WATER FOR JUNIOR LEAGUE BASEBALL LOT

The City Manager reported that water service was being installed for the Elks Baseball League on Kearney Avenue. Since the work is being donated by the Elks as a recreation project for youth in the community, he suggested that the city waive the connection service fee of \$200 and the monthly water service charge but that the water tap fee of \$25.00 be paid by the Elks. The Council concurred in the recommendation of the City Manager.

APPROPRIATION TRANSFER - COMPLETE ARRANGEMENTS TO HOLD COUNCIL MEETINGS IN BASEMENT OF THE PUBLIC LIBRARY FOURTEENTH AND I STREETS

Upon the recommendation of the City Manager, Councilman Mellis introduced

## RESOLUTION NO. 54-127

seconded by Councilman R. Adams, authorizing appropriation transfer of \$850.00 from the General Reserve to Miscellaneous Unclassified, Council Chambers to provide funds for the remodeling and alterations of the basement of the McHenry Public Library for purposes of providing room for City Council meetings, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

REPORT FILED BY THE FORWARD MODESTO COMMITTEE ON LOCATION OF HIGHWAY 99 FREEWAY

Fred Johnson, chairman of the consolidated sub-committees "Flow of Traffic", "Street Improvement, Maintenance and Drainage", and "Mass Transportation", of the Forward Modesto Committee, filed copies of the consolidated committees report "Location of Highway 99 Freeway". The committee recommended, Mr. Johnson stated, that the Council adopt Freeway Plan "B", with the provision that it be depressed to a sufficient degree in the central part of the city, that major streets can carry over without the necessity of a significant raise in elevation. The committee also recommended that if the Council was in agreement with the committee's recommendation, that the State Highway Commission be notified in ample time to prepare material and its own considerations in the light of this recommendation to be useful at a meeting of the Division of Highways to be held at Sacramento shortly after May 15, 1954.

Mayor Marks commended the committee on its excellent report. He recommended that the city secure the services of D. J. Faustman, Traffic Engineer of the City of Sacramento to go over the report with Council members, city officials and the members of the special committee of the Forward Modesto Committee. Councilman Mellis moved, seconded by Councilman R. Adams and it was unanimously carried, that the City Manager be authorized to make the necessary arrangements to secure the services of Mr. Faustman on the location of the highway 99 freeway.

COMMUNICATION FROM COUNCILMAN ANNAN

A communication from Councilman Annan, who had been absent on vacation, was read and ordered filed.

SUGGESTION ADDITIONAL STOP SIGNS BE INSTALLED ON G STREET

A member of the audience suggested that additional stop signs be installed on G Street since a number of accidents were occurring at 16th & G Streets. The City Manager informed him that the Traffic Committee would study this problem.

RESOLUTION OF COMMENDATION FOR FRANKLIN BILLS, DIRECTOR OF PLANNING

A letter from the City Planning Commission, together with a copy of its Resolution No. 130 adopted on April 22, commending Franklin Bills Director of Planning, who has resigned to assume a similar position at Las Vegas, Nevada, was read. Councilman Annan introduced

## RESOLUTION NO. 54-128

seconded by Councilman Arata, commending Mr. Bills for his excellent service to the City of Modesto while serving as Director of Planning, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

YOUTH IN GOVERNMENT DAY

The City Manager reminded the Council members that Youth in Government Day would be held May 5, 1954

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman Merrill, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:15 P.M.

  
 ATTEST: REX E. GAILFUS, CITY CLERK

May 4, 1954

The Council of the City of Modesto met in adjourned session this date at 7:30 P. M.

Present: Councilmen: R. Adams, Annan, Mellis and Mayor Marks

Absent: Councilmen: M. Adams, Arata and Merrill

PUBLIC HEARING ON PROPOSED ZONING ORDINANCE

This being the time and place set for the public hearing continued from April 27 on the proposed new zoning ordinance for the City of Modesto, the hearing was opened by the Mayor.

Height Limitations

A communication from the Pacific Telephone & Telegraph Co. was read. This requested that the height limitation on buildings in the downtown area be increased to 83 feet, since the building owned by the Pacific Telephone & Telegraph Co. on 13th Street had been originally planned for a five-story building, with a height of 83 feet. Mayor Marks referred the letter to the Administrative staff for further consideration.

The City Manager referred to a letter sent to him by the Grange Co., setting forth their objections to height limit requirements in the proposed ordinance.

Mr. Clifford Plummer, Chief Engineer of the M.I.D., stated the 65 foot limitation as now proposed is satisfactory as far as the Modesto Irrigation District is concerned.

Councilman Mellis stated he feels the height limitation should be raised to the point where it will not be a hardship on any business and suggested the council decide the height immediately. Mr. Grimes pointed out it will be more in order to consider all of the requests at one time rather than to try to determine them separately.

Public Utility Provisions

A letter from the P. G. & E. was read, indicating that company's satisfaction with the ordinance as presently drafted. Being cognizant of the suggested changes proposed by the M. I. D. for Section 1507, the P. G. & E. noted this change, if inserted, is also satisfactory. However, if any further changes are desired, request was made that the P. G. & E. be notified.

Mr. Plummer stated the M. I. D. has no further suggestions other than those previously expressed relating to the installation of power lines on railroad rights-of-way, Section 305; and the inclusion of the M. I. D. in Section 1507.

Parking Provisions

A clarification of "structural changes" was requested by Harry Weinflash, who also asked whether the interpretation of such would be liberal insofar as the parking requirements are concerned. Mayor Marks stated in the hard core of the city, it would have to be liberal and that participation in an improvement district could be used in lieu of individual requirements.

Discussion ensued as to the parking problems arising from the fact that after a district has been formed a new building may be erected

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within the district, generating considerable additional parking. Mr. Ott suggested in such a case provision should be made whereby the owner would furnish at least enough additional parking to take care of the increased traffic or pay an equivalent amount to a parking fund.

Councilman Mellis stated he does not believe we can define the parking problem in "zones", since as now written, more parking is required in the outlying areas than in the downtown section where it is most needed. Mr. Ott explained that several different factors affect the requirements:

1. A number of people come to downtown Modesto by bus or some car pool arrangement.
2. Multiple uses of lots in the downtown area, such as use by a store during the day and a theater at night, relieve the parking to an extent not experienced by outlying areas.

Mr. Mellis stated that a good businessman will provide parking and too strict provisions in the zoning ordinance would tend to destroy the purpose of trying to help the town. "We should require a minimum and if business wants more he should provide it." He stated he thinks the present parking requirements in the proposed ordinance might be a little too stringent. Mr. Ott, comparing Modesto's proposed requirements with studies of the Eno Foundation, stated the ones here proposed are modest and minimum.

Mr. Miller stated the City is checking the County Ordinance in order to gain knowledge from the county's experience and in cases where the county's requirements are suitable and are deemed to be reasonable and sound, reasonable conformity would be desirable.

Mayor Marks remarked that if a district is formed in the downtown area and no provisions made in the zoning ordinance, there will be new buildings erected in the central core of the city whose owners will receive a "free ride" at the expense of those now owning property downtown.

Mr. Boundey questioned the equality of demanding only a 25% participation from downtown businesses but requesting that outlying businesses furnish 100% adequate parking. Mayor Marks replied that the meters are the guide which demonstrates the need. He asked Mr. Boundey if he recommends no provision for parking in the zoning ordinance. Mr. Boundey agreed some provisions should be included, but that the same requirements should apply to the downtown area as in the outlying sections. Mr. Miller asked if he recommended parking meter money be used to provide parking in the outlying areas where no meters exist. Mr. Boundey remarked that the present need is downtown but should the need arise in the outlying areas the expenditure of meter money would be justified.

It was repeatedly pointed out that no objections had been received from the outlying areas, and that the present provisions in the county ordinance have been followed without protest for some time. Mr. Miller stated that solving the immediate problem in the downtown area does not solve the long range problem, and that the "formation of a district" in the downtown area does not solve the immediate problem unless it provides sufficient parking.

Mr. H. W. Huls remarked he had heard no complaints from owners outside the central core of the city. He is of the opinion that the public is well educated that parking is an urgent need and that the council will receive full support except for a few selfish interests.

SUMMARY OF SUGGESTED CHANGES

Mr. Miller stated he proposes to summarize the points and suggestions that have been received. Mayor Marks assured that all viewpoints, both written and spoken will receive full consideration before final action is taken, such action to be taken in open public session.

ADJOURNED SESSION

It was moved by Councilman R. Adams, seconded by Councilman Mellis and unanimously carried that the hearing be adjourned to May 18, 1954, at 7:30 P. M. in the City Council Chambers.

The meeting adjourned at 8:25 P. M.

  
ATTEST: REX E. GAILFUS, CITY CLERK

May 5, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M. in the Council Chambers, 717 10th Street, as provided by Ordinance No. 1084-N.S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill,  
Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. L. H. Bone of the Nazarene Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of April 13 and 21 and adjourned meeting of April 27, 1954, and the same being available for public inspection, and there being no objections the minutes were approved.

#### RESOLUTION URGING CITIZENRY TO PROPERLY OBSERVE STANISLAUS COUNTY CENTENNIAL YEAR

Mayor Marks presented the following resolution for the Council's consideration and moved its adoption, which was seconded by Councilman Arata

#### RESOLUTION NO. 54-129

WHEREAS, this year, 1954, marks the 100th Anniversary of the founding of Stanislaus County; and

WHEREAS, Modesto is the County seat of this great and prosperous county; and

WHEREAS, it is appropriate and right that the citizenry of our community, as well as the entire County, should make proper observance of this Centennial Year in noting the great progress, growth and development that has taken place in Stanislaus County in the past 100 years, and the contribution that Stanislaus County has made to the welfare of our State and Nation in production and wealth and services rendered by the citizens of Stanislaus County, in time of peace and war, to our state and national security and well-being; and

WHEREAS, in observing and celebrating the 100th Anniversary of Stanislaus County we also honor the great pioneers who by their hard work, courage, fortitude and faith built up a garden spot of the world from wild open desolate prairieland; and

WHEREAS it devolves upon the citizens of this community as a civic duty, as well as a matter of jubilation, that we, the citizens of Modesto, make note of this Centennial Year of Stanislaus County by appropriate programs and activities;

THEREFORE WE, THE CITY COUNCIL of the City of Modesto, respectfully call upon all civic minded groups, business houses, merchants, fraternal organizations, lodges, clubs, and particularly the churches and religious bodies, to prepare and have appropriate programs and services throughout this Centennial Year, if possible of a public nature, in order that one hundred years of progress and prosperity of Stanislaus County may be duly noted in the Sands of Time, and that we, the citizens of Modesto, may take time out to honor those pioneers who built so well, and to thank Our Heavenly Father for the blessings

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cast down upon our beloved County, and to fervently pray for His continued blessings and guidance for ourselves and our posterity.

BE IT FURTHER ORDERED, that a copy of this Resolution be made a part of the official records of the City of Modesto, and we, the City Council, do hereby affix the official seal of the City of Modesto hereto.

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Frank Damrell, representing the County Centennial Committee, requested that the City of Modesto through its Council appoint a committee to consider the placing of an appropriate banner at a suitable location at an early date, announcing that the county is observing its 100th anniversary throughout the year. He suggested that the banner be placed at Ninth and I Streets near the Arch sign so that it could be viewed by train passengers as well as motorists on the 99 highway.

Mayor Marks appointed Councilmen Arata and Mellis as a committee to confer with Mr. Damrell.

Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried that the committee, together with the City Manager and City Attorney, be authorized to determine the best place for the banner and the wording to go on the banner.

Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that the committee, City Manager and City Attorney take whatever action is necessary to place an appropriate banner on display at a suitable location.

#### YOUTH IN GOVERNMENT DAY

Mayor Marks declared a recess at 4:10 P.M. and turned the meeting over to the Youth in Government day officials from the Modesto and Downey High Schools Key Clubs, Jerry Reese officiating as Mayor.

A committee appointed by Mayor Reese reported on the action already taken by the city on the proposed reconstruction of Dennett Dam on Tuolumne River. They proposed a resolution which was adopted by the Council calling for a further study and a report by the Public Works Department in order to determine the type of structure most suited to serve the needs of the community and that concurrently therewith further talks be held with the Tuolumne River Park Association and other interested parties to obtain their views concerning the best solution of the problem.

At the request of Mayor Reese Councilmen Wallace and Simms reported on the L. J. Maddux Youth Center. They proposed a resolution, which was adopted by the Council, recommending that the organization, coordination, supervision and evaluation of the program and operation of the center be under the supervision of the Director of Recreation, that the cost of operation be financed by the city from general revenues and that the revised budget for the operation of the center, as prepared by the Director of Recreation at the request of the City Manager be approved and the funds set forth therein be appropriated for the purposes indicated in the budget for the 1954-55 fiscal year.

Harry Marks, from the audience, suggested that a youth Council be appointed from the student bodies of the various high schools and junior high schools in the greater Modesto area, with the student body presidents of the schools as members of the Council. There was some objection

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from the Council to the presidents being included.

After a general discussion by the Council on Mr. Mark's suggestion, the resolution was amended to include an additional section to provide that a committee be established to explore the possibility of a Youth Council.

Councilmen Lundberg and Berry reported on the possibility of using the old John Muir School building as a second Youth Center. They recommended that the grounds be developed as an athletic field with a parking area on the west side of the building and that the building be remodeled for meeting places and a dance floor. They introduced a resolution which was adopted by the Council that the school structure and ground be developed and used as a community recreational and service Center and that such existing structures as the Boy and Girl Scout clubhouses and the American Legion hall be used as neighborhood clubhouses. It was agreed by the Council that the resolution should be amended to provide that the dance floor be placed on the first floor instead of the second floor of the old John Muir school building.

The Youth Council expressed its appreciation for the assistance of Bob Cook of the Forward Modesto Committee in arranging the Youth in Government Day program.

Mr. Marks pointed out that the Youth center had been built for all the youth in the community and not just for juvenile delinquents.

A copy of the minutes of this special student meeting and a list of the student officials, as well as reports by student department heads, are on file in the City Clerk's office.

#### RECONVENING OF CITY COUNCIL

Mayor Marks called the Council of the City of Modesto to order again and the regular meeting proceeded.

#### LETTER FROM MYRA HUGHES REGARDING DUMPING OF REFUSE ALONG COUNTY ROADS

A letter from Myra Hughes relating to the dumping of refuse along county roads was referred to the City Manager for reply.

#### LETTER FROM E DALE COVERT RE: STOP SIGNS ON DOWNEY AVENUE AT INTERSECTION OF BODEM AND HARRIETT STREETS

A letter from E. Dale Covert regarding installation of stop signs on Downey Avenue at the intersections of Bodem and Harriett Streets, was referred to the Traffic Committee.

#### FILING OF LETTER BY ATTORNEY VERNON GANT, TOGETHER WITH PETITION RE: USE OF CITY STREETS BY TIDEWATER SOUTHERN RAILWAY COMPANY

A letter from Attorney Vernon F. Gant, together with a petition signed by 178 persons, urging that the Council "take a strong, clear and unequivocal stand and let it be known without any doubt that the Tidewater Southern Railway Company, is going to have to get its tracks off Ninth Street.", was read. Councilman Mellis moved, seconded by Councilman Arata, that the City Manager be instructed to notify Mr. Gant of the action taken by the Council on March 10, allowing the Tidewater Southern Railway Company 90 days to assemble its report before discussing the franchise matter with the city officials.

#### LETTER FROM FORWARD MODESTO COMMITTEE RE: AREA PARKS

A letter from the Forward Modesto Committee, together with a copy of a report of study group No. 6-AREA PARKS, was considered. The Committee recommended that the city "set about through its Park and Recreational Departments, planning for the development of the Tuolumne River Regional Park."

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The City Manager stated that while there has been extended discussion of the possibility of a State Park on the Tuolumne River, no formal application has been made to the State for specific assistance on a specific project. He recommended that the city should move along rapidly and asked that he be authorized to work with the State and other interested agencies and groups, and make whatever application is necessary. Councilman Annan introduced

RESOLUTION NO. 54-130

seconded by Councilman Arata, stating that it is the intent of the Council that the city spare no effort to obtain a river park, and that the City Manager be authorized to apply to the State for assistance in the developing of the Tuolumne River Park, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

AWARD BID ON SAND TRAPS (PUMP STATIONS NOS. 1 and 17)

The City Manager reported that Director of Public Works Ray had recommended that the one bid received for the furnishing of sand traps for pump stations #1 and #17 from Consolidated Western Steel Corporation of Fresno of \$2,063.65 for unit #1 and \$2,808.34 for unit #2 be accepted. Councilman M. Adams introduced

RESOLUTION NO. 54-132

seconded by Councilman Arata, accepting the bid of Consolidated Western Steel Corporation of Fresno for sand traps, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

FINAL ADOPTION ORDINANCE NO. 1127-N. S. AMEND TELEVISION ORDINANCE NO. 1118-N. S.

Ordinance No. 1127-N. S. entitled "AN ORDINANCE OF THE CITY OF MODESTO AMENDING ORDINANCE NO. 1118-N. S. ENTITLED 'AN ORDINANCE REGULATING THE LOCATION, INSTALLATION, ALTERATION, REPAIR AND MAINTENANCE OF TELEVISION ANTENNAS: PROVIDING FOR INSPECTIONS: AND PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE' BY AMENDING SECTION 2 (c) THEREOF," having been heretofore introduced and ordered printed and published at the regular meeting of April 28, 1954. Councilman M. Adams moved, seconded by Councilman R. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

FURTHER CONSIDERATION OF REQUEST OF NATIONAL HEADQUARTERS OF THE MILITARY ORDER OF THE PURPLE HEART, INC. TO HOLD EXHIBIT OF FIREARMS IN CITY

The City Manager reported that a request from the National Headquarters of the Military Order of the Purple Heart, Inc. to hold an exhibit of firearms in the city had been referred to the local organization for recommendation. The local organization reported that while it would not support or sponsor the exhibit, it did not wish to conflict with the national headquarters. Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the request of the National Headquarters of the Military Order of the Purple Heart, Inc., to exhibit firearms in the city, be denied.

DENY REQUEST OF MODESTO AREA YOUTH FOR CHRIST TO USE SIDEWALKS IN BUSINESS AREA FOR FUND COLLECTION

The City Manager reported that as requested by the Council, he had contacted the cities of Azusa, Pasadena and Whittier to determine their experience in fund raising campaigns conducted by the Youth for Christ organization by means of placing a mile of paper adding machine tape in the center of the business district sidewalks on which to place

pennies to be used to send boys to its summer camp. The reports generally raised no objections to the plan. One letter pointed out the problem of liability of the city.

Mayor Marks pointed out that if permit was granted to this organization, that other organizations would request similar permits.

Councilman Annan recommended that permission be granted and if the city ran into any difficulty, that the practice be discontinued. Councilman Mellis pointed out that there were many other methods of collecting funds, which would not create a public hazard and that once a permit was granted, the Council would be duty bound to continue granting permits.

Ken Karraker, Rally Director for the Modesto Area Youth for Christ, stated that this was the way of raising funds to send delinquent boys to the summer camp and that names of the boys were furnished by the Chief of Police.

The City Manager recommended that permit be denied, as it would create considerable problems and set a precedent for other organizations to file similar requests. Councilman Arata moved, seconded by Councilman Mellis, that the request of the Modesto Area Youth for Christ to use the sidewalks in the business area to conduct a drive for funds be denied. Mayor Marks declared the motion carried.

#### RESOLUTION AUTHORIZING ADDITIONAL MAJOR CITY STREETS

Upon the recommendation of the City Manager, Councilman Annan introduced

#### RESOLUTION NO. 54-131

seconded by Councilman Mellis, designating certain streets, or a portion thereof, as major city streets in the City of Modesto, and rescinding Resolution No. 9810-N. S., adopted by the Council on April 9, 1953, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

#### REPORT ON PROPOSED TESTING PROGRAM AT HAYWARD SEWAGE TREATMENT PLANT

The City Manager reported that preliminary arrangements had been completed with the City of Hayward, Harry Jenks and the Dorr Company for the proposed testing program at the Hayward Sewage Treatment Plant. He stated that it would be a continuous testing program, starting early in June. The estimated cost, he stated, would be approximately \$4500, to be shared equally three ways between Mr. Jenks, the Dorr Company and the City of Modesto, with the City of Hayward furnishing the facilities and supervisory help. (He stated that he had been assured that costs would not exceed \$6000.) Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Manager be authorized to proceed with the plan and prepare the necessary contract for the Council's final approval.

#### APPROVE APPROPRIATION TRANSFER OF \$750 FROM SPECIAL RESERVE TO MUSIC AND PROMOTION FOR MODESTO JUNIOR CHAMBER OF COMMERCE

Upon the recommendation of the City Manager, Councilman Mellis introduced

#### RESOLUTION NO. 54-133

seconded by Councilman R. Adams, approving appropriation transfer of \$750 from the Special Reserve to Music and Promotion for the Junior Chamber of Commerce California Relays, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ACCEPT DEEDS FOR WIDENING OF ORANGEBURG AND COLLEGE AVENUES

Upon the recommendation of the City Manager, Councilman Mellis introduced

## RESOLUTION NO. 54-134

seconded by Councilman Annan, accepting grant deeds from the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, Frank J. Francek, et ux, Albert R. Muth, et ux and Ruby D. Berry, for the widening of Orangeburg and College Avenues, and authorizing the recording of said deeds with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DISCUSS WAIVING OF FEES ON CIRCUS IN McHENRY VILLAGE ADDITION SPONSORED BY THE MODESTO JUNIOR CHAMBER OF COMMERCE

The City Manager reported that the Junior Chamber of Commerce was sponsoring a circus to be held in the McHenry Village Addition on May 7th, and that as arrangements had been made under the county regulations prior to annexation, fees would not be collected if there were no objections. No objections were offered by the Council members.

GRANT PERMISSION TO MODESTO TALLOW WORKS TO DRILL WELL AT PLANT ON CROWS LANDING ROAD

As provided by Ordinance No. 869-N. S. petition to drill a well on its property on Crows Landing Road was filed by the Modesto Tallow Works. Councilman Arata introduced

## RESOLUTION NO. 54-135

seconded by Councilman Annan, granting permission to the applicant to drill a well on its property on Crows Landing Road, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DISCUSS PUBLIC HEARING ON 99 FREEWAY PLAN

A general discussion was held by the Council on the plans for the publicity of the public hearing to be held on the route for the proposed new 99 freeway. Councilman Mellis recommended that a large hall be arranged for and the general public be urged to attend. It was also suggested that the Council members tour the proposed routes with Mr. Faustman, Traffic Engineer from Sacramento. The City Manager recommended that the State Department of Public Works be requested to hold a public hearing on this matter at a date to be set later.

Councilman M. Adams introduced

## RESOLUTION NO. 54-136

seconded by Councilman Annan, requesting that the State Department of Public Works set a date for public hearing on the proposed 99 freeway and that this community be given ample notice of the date of the hearing, which resolution was regularly adopted by the following votes:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

HEARING BEFORE BOARD OF SUPERVISORS ON COUNTY PARK PLAN

The City Manager reported that a hearing would be held before the County Board of Supervisors on the proposed county park plan at 3:30 P. M., May 10. He suggested that

the city have a representation at this meeting. It was moved by Councilman Mellis, seconded by Councilman R. Adams, and unanimously carried, that the City Manager and the Council committee attend the meeting as representatives of the city in support of and urging action on the plan.

ACCEPT THIRD QUARTER REPORT ON ACTIVITIES OF THE MODESTO CHAMBER OF COMMERCE

A report was filed by the Modesto Chamber of Commerce on activities of the Chamber for the third quarter, as provided by agreement with the City. Councilman Annan moved, seconded by Councilman Mellis, and it was unanimously carried that the report be accepted as submitted.

Councilman R. Adams introduced

RESOLUTION NO. 54-137

seconded by Councilman Annan, authorizing payment of \$750.00 to the Chamber of Commerce, balance of the 1953-54 appropriation, which resolution was regularly adopted by the following votes:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REQUEST FOR RATE INCREASES FILED BY MODESTO GARBAGE COMPANY

A request filed by Joseph D. Corey, C. P. A. on behalf of the Modesto Garbage Company, for rate increases, was considered. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the request be referred to the City Manager for his investigation and report "on how much it means to the citizens of Modesto".

REPORT ON MEETING WITH COUNTY BY COUNCILMEN R. ADAMS AND MELLIS

Councilman R. Adams reported on the meeting with the Board of Supervisors and a committee from the Grand Jury, which Councilman Mellis and he had attended on May 4, on the matter of jail costs. The desire of the City of Modesto to pay its just share of the expense for keeping prisoners in the county jail and road camp, was expressed, he stated. However, it was pointed out that Modesto should be treated in equity with all of the other incorporated cities in the county. At the present time, he continued, Modesto is the only incorporated city in the county paying the county for prisoner care.

Another meeting is to be held at 9:00 A. M., May 19, which is to be attended by Council representatives as well as administrative representatives from all incorporated cities in the county. He asked that City Manager Miller and City Attorney Grimes arrange to attend the meeting.

ADJOURNMENT

Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried, that the meeting adjourn.

The meeting was adjourned at 6:00 P. M.

ATTEST:  REX E. GAILFUS, CITY CLERK

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May 12, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P. M. in the Council Chambers, 717 Tenth Street, as provided by Ordinance No. 1084-N. S.

The City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill

Absent: Councilmen: None - Mayor Marks

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

Invocation was given by Rev. W. H. Cox of the First Missionary Church.

REQUEST OF MODESTO INSURANCE AGENTS' ASS'N TO INSTALL SIGNS ON LAMP STANDARDS DURING MONTH OF JUNE "SPEED KILLS TAKE IT EASY"

A request was filed by the Modesto Insurance Agents Ass'n to erect 50-75 signs carrying the campaign slogan only "Speed Kills--Take it Easy", on traffic signal standards or lighting standards along main traffic arteries during the month of June. William Murray, representing the Association, stated that after checking with Police Chief Neel, it had been agreed that installing the 18" x 18" signs on traffic signal standards would be a pedestrian hazard, and that the request should be amended to provide for the installation on light standards only. City Manager Miller recommended that the request be granted with "gratitude" and that the City of Modesto join in with the association and other organizations to declare the month of June as "Traffic Safety Month". Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the Modesto Insurance Agents' Association, with the cooperation of the Police Chief, be allowed to install the signs on light standards during the month of June.

Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the month of June be declared as Traffic Safety Month and that the City Manager be authorized to take all the necessary steps to advise the general public.

LETTER FROM HORACE DRYDEN RE: GIFT OF LAND FOR MUNICIPAL GOLF COURSE

A letter from Horace Dryden, President of the Dryden Poultry Breeding Farm, offering to make approximately 50 acres of land immediately available to the City of Modesto as a gift for the development of a first class 18 hole golf course, subject only to conditions as will be mutually agreed upon between his attorneys and the City Attorney, was read by Mayor Pro Tempore Merrill. This letter is hereby made a part of these minutes.

Mayor Pro Tempore Merrill expressed the appreciation of the Council and the citizens of the city for the splendid offer of Mr. Dryden. Councilman R. Adams reported on the inspection tour of the property, by the committee along with Michael McDonagh, Golf Course Engineer from Sacramento. Mr. McDonagh had stated, Councilman R. Adams reported, that the site was ideally located for a golf course and that "the city would be derelict in its responsibilities by not doing everything physically possible to carry through within a reasonable period of time, an eighteen hole golf course in that area." Councilman R. Adams pointed out that it would be necessary to acquire additional land for the construction of an 18 hole course but that he felt that this problem could be solved "by a little hard work". He pointed out that the old golf course site could be used for many other needed recreation facilities.

Mayor Pro Tempore Merrill pointed out that while the city had more urgent civic projects, such as the city hall, that with the nucleus of the 50 acres and the enthusiasm of the people and organizations in the community for an 18 hole golf course, that he felt certain a financial program for the acquisition of the additional 60-70 acres needed could be worked out.

Nelson Betker, Chairman of the Modesto Municipal Men's Golf Club, filed a report with the council outlining the needs for a 18 hole golf course, a copy of which is filed in the office of the City Clerk.

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RESOLUTION NO. 54-139

seconded by Councilman Mellis, accepting the gift of approximately 50 acres of land from Horace Dryden President, Dryden Poultry Breeding Farm, under the terms outlined in the letter of May 7, 1954, and that the Mayor be authorized to send Mr. Dryden a letter of appreciation on behalf of the Council and the citizens of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams and Mayor Marks

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the City Attorney be authorized to work out the arrangements with Mr. Dryden's Attorney, and that letters of appreciation be sent to Mr. Michael McDonagh, as well as Mr. Reg. Renfree, Recreation Superintendent of the City of Sacramento, for their assistance.

It was agreed by the Council that the Golf Course Committee should continue to work with Mr. Eugene Johnson, representing the Dryden Poultry Breeding Farm in order that action be taken at an early date.

Mr. Johnson stated that it was the wish of Mr. Dryden that the city have an 18 hole golf course and that it was Mr. Dryden's belief that a recreation area at the present golf course site would benefit the youth of the community.

The Captain of the Women's Golf Club pointed out the inadequacy of the present 9 hole golf course to serve the general public in and around Modesto.

Harry Rix, member of the Golf Course Committee assured the Council that heavy earth moving equipment for the construction of the new course would be made available by his employer, an implement company. He offered his services to "put over the new course", which was readily accepted by the Council.

HEARING ON APPEAL OF D. L. CURTICE TO OPERATE A REAL ESTATE AND INSURANCE OFFICE AT 1519 ENCINA AVENUE

This being the time set for the public hearing on the appeal of D. L. Curtice to continue operating his real estate and insurance office at 1519 Encina Avenue, Mayor Pro Tempore Merrill read a letter from Mr. Curtice requesting postponement of the hearing until May 19, 1954. Councilman Annan moved, seconded by Councilman R. Adams, and it was unanimously carried, that the hearing be adjourned until 4:30 P. M. May 19.

Councilman M. Adams arrived at 8:15 P. M.

INVITATION FROM UNITED STATES NAVAL RESERVE OPEN HOUSE

An invitation to the Council from the United States Naval Reserve to attend an open house between 10:00 A. M. and 4:00 P. M., Saturday, May 15, at the Municipal Airport, in connection with the observance of Armed Forces Day, was read. The City Clerk was directed to remind the Council members of the invitation prior to the event.

APPROVE PLANS AND SPECIFICATIONS, AUTHORIZE CALL FOR BIDS PUMP HOUSES AT #1 and #17

Plans and specifications for the construction of pump houses at Pump Stations No. 1 and 17 were presented by the Director of Public Works for consideration. Councilman Mellis introduced

RESOLUTION NO. 54-140

seconded by Councilman Arata, approving the plans and specifications for the construction of Pump Houses at Pump Stations No. 1 and 17 and authorizing the City Clerk to advertise for bids, said bids to be opened at 2:00 P. M., May 24, in the Council Chambers, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
Noes: Councilmen: None  
Absent: Mayor Marks

Tabulation of the ten bids received for the construction of the south section of west sanitary trunk sewer, which had been opened at 2:00 P. M., May 10, 1954, were distributed to the Council by the Director of Public Works.

The City Manager reported that before award could be made that it would be necessary to clear certain points, which would be completed by the next Council meeting.

ORDINANCE AMENDING ORD. 1084-N. S. ESTABLISH LOCATION OF CITY COUNCIL CHAMBERS AT THE MCHENRY PUBLIC LIBRARY

The City Manager stated that in order for the Council to use the McHenry Library basement for Council Chambers it would be necessary to amend Ordinance No. 1084-N. S., which designated the location of the Council Chambers as 717 Tenth Street. Councilman Annan moved the introduction and passage to print of

ORDINANCE NO. 1128-N. S.

entitled: "AN ORDINANCE AMENDING SECTION OF ORDINANCE NO. 1084-N. S. OF THE CITY OF MODESTO ENTITLED 'AN ORDINANCE PROVIDING THE TIME, PLACE AND PROCEDURE FOR CONDUCTING MEETINGS OF THE CITY COUNCIL OF THE CITY OF MODESTO", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
 Noes: Councilmen: None  
 Absent: Mayor Marks

CONSIDER CHANGE IN PENALTY PROVISIONS OF BUSINESS LICENSE ORDINANCE NO. 487-N. S.

The City Manager presented a report, together with a suggested amendment to business Ordinance No. 487-N. S. providing for the penalty provisions to conform with the city sales and use tax ordinance, as well as permitting the Council to waive penalty charges resulting from deficiency determinations under certain conditions. The matter was continued over until the next Council meeting.

CONSIDER CHANGE IN CONTRACT WITH STANDARD OIL COMPANY AT AIRPORT

The City Manager reported that a proposed change in the present contract with Standard Oil Company at the Municipal Airport had not been cleared as yet for the Council's consideration.

DISCUSS TRAFFIC PROBLEMS IN RESIDENTIAL AREA

A group of residents of the area bounded by College Avenue, Tully Avenue, Princeton and Yale Avenues, appeared before the Council. Tom Conway, spokesman for the group, stated that due to the wide curved streets, speeding cars created a serious traffic problem endangering the lives of approximately 38 small children living in the area. He suggested to the Council that pending a permanent solution that temporary traffic signs and cross walks be installed. Members of the group suggested that the creation of traffic islands, stop signs and signs reading "Drive Slow--Children at Play" be considered in the permanent solution.

The City Manager pointed out that this traffic problem was not confined to this area only but that it was a problem over the entire city. The Police Department, he stated, is working constantly, day and night to control speeding. He pointed out that when the necessary rights of way had been secured to widen Tully Road that the traffic situation in this area would be relieved. He urged that the residents keep their children off the streets. He pointed out the futility of installing warning signs, since if signs were put up in this area it would be necessary to install them in other sections and that the signs would lose their meaning. He asked that the residents obtain the license numbers of the speeders and give them to the police department. He offered the full cooperation of the city in meeting the problem.

Police Chief Neel concurred in the suggestion of the City Manager and urged that the residents obtain the license number of the speeder and if possible, give the department an idea of whether the speeder was a boy, man, woman or girl. The residents were asked to meet with the Police Chief to work out a solution to their problem.

CITY MANAGER READ EXCERPT FROM MOTORLAND RE: "IS THAT SIGN NECESSARY"

The City Manager presented to the Council an excerpt from the May 1954 issue of Motorland entitled: "Is that Sign Necessary" relating to the indiscriminate use of signs and signals without careful attention to sound engineering principles.

REPORT ON PROPOSED TERMINATION OF CONTRACT WITH PACIFIC FRUIT EXPRESS ON SEWER SERVICE AND LINE

The City Manager reported that the termination of contract for the furnishing of sewer service to the Pacific Fruit Express Company on Tully Road, which had been annexed to the city had been discussed with the company. He recommended, to which the company had agreed that the contract be cancelled, effective May 31, and that the regular sewer rate be charged. The company has also agreed, he stated, to turn over the privately owned sewer line to the city under certain conditions. He suggested, and the Council concurred, that arrangements be completed along these lines and the contract be presented for formal approval by the Council.

RELOCATE TWO HOUR PARKING ZONE ON SOUTH SIDE OF E STREET BETWEEN TENTH AND ELEVENTH STREETS

Upon the recommendation of the City Manager, Councilman Annan introduced

RESOLUTION NO. 54-141

seconded by Councilman M. Adams, establishing two hour parking on the south side of E Street between its intersection with Tenth Street and Eleventh Street for a distance of 92 feet, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
Noes: Councilmen: None  
Absent: Mayor Marks

REPORT TO COUNTY ON RECREATION PROGRAM FOR 1954-55

The City Manager reported briefly on the action taken by the Board of Supervisors at its public hearing on May 10 on the proposed County Planning Commission's plan for a county park system. He presented for the Council's consideration a report to be submitted to the Stanislaus County Board of Recreation Commissioners relating to the participation by the County in the community Recreation Program carried on by the City of Modesto, a copy of which is on file in the office of the City Clerk. Councilman Mellis moved, seconded by Councilman Annan, and it was unanimously carried, approving the report and authorizing its submission to the Stanislaus County Board.

REQUEST OF CODDING HOMES FOR SEWER AND WATER SERVICE TO PROPOSED SUBDIVISION NORTH OF McHENRY VILLAGE

A letter was filed by Coddling Homes requesting annexation of its property bounded on the west by McHenry Avenue, north by Tokay Avenue, east by Sunrise Avenue and south by Norwegian Avenue, known as McHenry Village Subdivision #1, wherever it becomes contiguous to the city limits. The company requested that the city enter into an agreement during the interim period for water and sanitary sewer facilities to serve the subdivision.

It was agreed by the Council that the City Manager should make an investigation and report to the Council on the approximate cost to the city for furnishing of these services to this area.

FINANCIAL STATEMENT FOR MONTH OF APRIL, 1954 FILED

The financial report for the City of Modesto for the month of April, 1954, was filed with the Council by the City Manager.

APPROVE AGREEMENT WITH STATE OFFICE OF CIVIL DEFENSE

The City Manager reported that arrangements had been completed with the State Office of Civil Defense for the assignment of a fire pumper to the fire department. He outlined the terms of the agreement to be executed with the state. Councilman R. Adams introduced

RESOLUTION NO. 54-142

seconded by Councilman M. Adams, approving agreement covering the assignment of the Office of Civil Defense of a fire pumper to the City of Modesto and authorizing its execution by authorized city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
Noes: Councilmen: None  
Absent: Mayor Marks

PETITION TO FORM IMPROVEMENT DISTRICT FOR IMPROVEMENT OF ALLEY

A petition signed by property owners in Block 113 that an improvement district be formed for the purpose of grading and paving the alley was read. Councilman M. Adams moved, seconded by Councilman R. Adams, that the petition be referred to the City Manager for the necessary action, which was unanimously carried.

AUTHORIZE CITY MANAGER RECRUIT PLANNING PERSONNEL

The City Manager requested and was granted permission by the Council to recruit personnel for the Planning Department at a wage level between the present wage of the Planning Technician and Planning Director.

CREATE MODESTO STATE HOSPITAL SOFT BALL FIELD FUND AND AUTHORIZE ACCEPTANCE OF DONATIONS AND EXPENDITURES OF FUNDS FOR THE PURPOSE OF LIGHTING SOFTBALL FIELD

The City Manager reported that the softball field project at the Modesto State Hospital was proceeding satisfactorily. Donations are being received for the installation of lights at the field, he stated, and it will be necessary to create a fund for these contributions. Councilman Mellis introduced

RESOLUTION NO. 54-143

seconded by Councilman Arata, creating a special fund to be known as "The Modesto State Hospital Softball Field Fund" and approving the acceptance of donations for this fund and authorizing expenditure of such funds so donated for the purpose of providing lighting at the softball field at the hospital, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill  
Noes: Councilmen: None  
Absent: Mayor Marks

Upon the recommendation of the City Manager, Councilman Mellis moved, seconded by Councilman M. Adams and it was unanimously carried that the Mayor Pro Tempore appoint a committee to appear before the Board of Directors of the Modesto Irrigation District and request that a transformer be made available for the Modesto State Hospital Softball Field.

Mayor Pro Tempore Merrill appointed a committee of Councilmen Mellis, Arata, and himself to appear before the Board on May 13.

POLICE CHIEF TO CHECK ON CITATIONS GIVEN FOR SPEEDING ON YOSEMITE BLVD.

At the request of Councilman R. Adams, Police Chief Neel was requested to check on recent arrests made for speeding on Yosemite Blvd., and to determine if the area was signed properly to conform with the recent annexation.

A RESOLUTION RECOMMENDING APPOINTMENT OF SHERRILL HALBERT AS JUDGE OF THE UNITED STATES DISTRICT COURT

Councilman Mellis introduced

RESOLUTION NO. 54-138

recommending the appointment of the Honorable Sherrill Halbert to the office of Judge of the United States District Court for the Northern District of California; directing the City Clerk to transmit copies of this resolution to Senator William F. Knowland, Senator Thomas H. Kuchel, Congressman J. Leroy Johnson, seconded by Councilman Mellis, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro  
Tempore Merrill

Noes: Councilmen: None

Absent: Mayor Marks

CHECK ON LOCATION OF CITY LIMIT SIGNS ON McHENRY AVENUE

Location of the city limit signs on McHenry Avenue was brought up by Councilman Mellis. The City Manager was directed to check with the state on the location of the signs.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 9:30 P. M.

  
ATTEST: REX E. GALLFUS, CITY CLERK

The Council of the City of Modesto met in adjourned session this date at 7:30 P. M.

Present: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Absent: Councilmen: R. Adams and Merrill

PUBLIC HEARING ON PROPOSED ZONING ORDINANCE

This being the time and place set for the public hearing continued from May 4, 1954, on the proposed new zoning ordinance for the City of Modesto, the hearing was opened by Mayor Harry Marks.

Height Limitations

Referring to former discussions regarding the height limitations as presently proposed, and with specific reference to correspondence from the Grange Co. and the Pacific Telephone & Telegraph Co., Mr. Miller stated he had checked with the Board of Fire Underwriters as to the effect of building height limitations on the City's fire rating. He was informed that the rating is figured to some extent by the number of high buildings in the area but had found no compelling reasons for concern on the part of the City at this time over height limitations in some zones, specifically, M-1 and M-2 zones. He suggested requirements on building heights might be included, with provisions for the granting of variances in special cases. He reported the 85 foot aerial ladder will work reasonably as high as 70 to 75 feet, but higher than that would be difficult.

Mayor Marks asked Mr. Davies, of the Pacific Telephone & Telegraph Co., if it would be satisfactory to leave the height limitation at 65 feet, with procedures for granting variances where justified. Mr. Davies suggested raising the limitation to 67 feet, which would take care of 4-stories of the Pacific Telephone & Telegraph Co. building as proposed, with the possibility of a variance for the 5th story.

Mr. Miller raised the question of height limitation for towers, referring to the proposed section in the ordinance on Unclassified Uses, which includes radio and television transmitters, but no other type of tower. He suggested the addition of "radio and television transmitters and radio and television towers and other towers."

In connection with this, Mr. Ed Taylor raised the question of the work house in the elevator at the Grange Co., which is 138 feet above ground level. Mr. Ott pointed out towers are fairly adequately defined in Section 1601, page 52 of the proposed ordinance, but Mr. Taylor still questioned the phrase in this section, "but no space above the height limit prescribed for the zone in which the building is located shall be allowed for the purpose of providing additional floor space." Mr. Miller assured Mr. Taylor he would consider this problem with him.

Height limitations in areas adjacent to the airport were discussed briefly. It was agreed this is a problem which must be handled separately from general provisions. Mr. Miller stated he will check with the Civil Aeronautics Administration regarding necessary height limitations.

The Council agreed that the height limitations in the C-2 and C-M zones be increased to 70 feet with provisions for the granting of a variance when justified, and that the height limitations be removed from the M-1 and M-2 districts except where such relaxed provisions would interfere with the airport.

Mr. Annan felt an industry seeking to locate in Modesto and requiring a higher building than provided for in the ordinance, would be granted a variance, thus he felt any height limitations to be superfluous. He also questioned the effect on the fire rating. Mayor Marks replied, "You have to balance the cost of the loss of an industry against the effect it would have on the fire rating."

Parking

Mr. Miller stated two of the principal items to be considered in relation to the parking requirements are 1) proposal for requirements by zones and 2) the matter of requiring parking upon remodeling.

a) Zones for parking requirements

The method, previously proposed, for dividing the city into three separate zones -- the metered area, the balance of the central business section and the outlying area--for the purpose of varied parking requirements, was discussed in detail. It had been suggested that the outlying area be required to furnish 100% of the requirements as provided in the proposed ordinance; that the second section be required to furnish 75% of the minimum proposed requirements and within the hard core of the city, the metered area, only 50% minimum standards be required, with alternatives of 25% participation in a parking district or paying into a parking fund.

Mr. Annan asked for clarification with regard to the differentiation in the requirements. Regarding the justification for the various parking requirements, some of the points brought out were: 1) Tax values in the central section of the city must be maintained in order to protect residences from undue taxation; 2) the values of the land are such that the developer in the outlying area can furnish a far greater number of spaces for the same amount than in the downtown area; 3) the development of mass transportation to the downtown section will ease the parking situation.

Mr. Mellis agreed there should be parking provisions in the proposed ordinance but suggested the same provisions should apply to all areas. He stated the proposed zoning ordinance should not be confused with the duties of the Parking Authority.

Mr. Ott stated the proposed requirements are in line with those of other cities and that if such requirements are relaxed Modesto will be faced with great parking problems in a very few years.

Mr. Mellis contended the requirements for provisions of parking are a radical idea; that we should educate the people in a small way and later increase the requirements if minimum standards set up now prove to be inadequate.

It was reported that a recent canvass of Stockton failed to find any complaints from the outlying areas that the parking requirements are too severe. It was also reported that Stanislaus County has had no problem with the County's parking requirements and it was pointed out that those proposed for the City of Modesto are less stringent than those in the County.

Mr. Grimes stated if zone classifications are accepted, there should be a reasonable basis for requiring different amounts of parking in different zones.

Mr. Boundey pointed out that the proposed ordinance as recommended by the Planning Commission does not consider "zones" for parking, but requires off-street parking only for new buildings and those reconstructed or structurally altered.

Mr. Grimes, reading from Highway Research Board Bulletin, No. 24, stated, "Parking requirements should be made applicable to new or substantially altered structures... basis must be related to parking generated by the enterprise; all uses in similar classes must be treated alike." He stated the existing problem is one thing that must be resolved one way; the zoning ordinance must operate only prospectively.

Mayor Marks asked Councilman Mellis if he would sanction a provision of 25% based on gross floor area, to be applied on an overall basis. Mr. Mellis stated if there is no discrimination he has no objections.

It was suggested that there be a minimum requirement of 25% of the floor space and the city offer inducements to property owners to provide more. Mayor Marks stated this would not work out. Mr. Ott felt it would be too costly to the City to provide 75% of the total parking requirements on an overall basis.

Mr. Ott stated, commenting on the proposed relaxed requirements for the metered area, that a lot actually meant to help the metered area might be so located, due to lack of available land in the heart of the city, as to aid materially those businesses in the unmetered zone. He suggested 2 zones rather than 3 -- the metered area and the outlying area. Mr. Mellis agreed to this proposal. An informal poll of the Councilmen present showed unanimous agreement to basing parking requirements on two separate zones.

b) Alteration Provisions

In regard to provisions covering specific remodeling and expansion of existing buildings, Mr. Ott stated he would study this further and bring it back to the Council.

Off-Street Parking Through Zoning

Mr. Ott called attention to the fact that, as presently proposed, the zoning ordinance permits parking lots only in R-3 zones. He stated he feels these should be allowed in all "R" districts with a use permit, since commercial uses are adjacent also to other residential zones. It was agreed the ordinance should contain a clause permitting parking lots in "R" districts adjacent to commercial uses, under a use permit with proper safeguards and after proper hearing.

Provision for Loading Areas

Mr. Miller suggested a provision for loading areas should be included and asked Mr. Ott to submit something reasonable to the Council on this subject.

Side Yards

Mr. Miller stated side yard requirements had been checked with the Board of Fire Underwriters as to the effect of 6-foot side yards on the fire rating. It was pointed out that eventually such requirements would directly affect the fire rating. Mr. Miller agreed to check this out with the Board of Realtors, the organization which had expressed interest in the question.

Zoning on Covena Avenue

Mr. Chet Spearing requested information as to the future zoning on Covena Avenue. He was advised to check this out with the Planning Commission.

Proper Zone for Bulk Petroleum Storage Plants & Definition of Service Station

Mr. Keyes pointed out some question had been raised as to a proper definition of a service station and whether or not bulk petroleum storage plants should be permitted in C-M zones. Mr. Miller stated both of these matters should be taken under study.

Rear Yard

Mr. Ott called attention to the fact that no rear yard requirements had been included in the proposed ordinance. Mr. Boundey stated this had been omitted intentionally by Mr. Whitnall. Mr. Miller was directed by the Council to discuss this with the Board of Realtors also.

ADJOURNMENT

On motion of Councilman Arata, seconded by Councilman Annan, and by unanimous vote of the Council, the hearing was declared closed by the Mayor at 9:30 P. M.

  
 ATTEST: REX E. GAILFUS, CITY CLERK

May 19, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P. M. in the Council Chambers of the City of Modesto at 717 Tenth Street, as provided by Ordinance No. 1084-N. S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Absent: Councilmen: Merrill

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

Invocation was given by Rev. Paul Talbot of the Four Square Gospel Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of April 28 and May 5 and adjourned meeting of May 4, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM ASSOCIATED PLUMBING CONTRACTORS OF STANISLAUS AND MERCED COUNTIES, INC. RE: ENFORCEMENT OF PLUMBING CODE

A letter from the Associated Plumbing Contractors of Stanislaus and Merced Counties, Inc. relating to the enforcement of the provisions of the Plumbing Code governing permits and inspections, was read. The Council referred the letter to the City Manager for investigation.

#### LETTER FROM MODESTO IRRIGATION DISTRICT REQUESTING PERMIT TO DRILL TWO WELLS ON ITS PROPERTY AT 11TH AND M STREETS (BLOCK 65 LOTS 1-10)

A letter from the Modesto Irrigation District requesting permission to drill two wells on its property in Block 65, (Lots 1-10 inc.) was read. The letter was referred to the City Manager for analysis and report to the Council.

#### LETTER FROM A. M. FRAD RE: LOCATION OF PROPOSED FREEWAY 99

A letter from A. M. Frad, Chairman of the Modesto Committee for Fair Play, together with a copy of the committee's letter to Governor Goodwin J. Knight, relating to the location of the proposed Freeway, was read. Mr. Frad's letter stated that the committee was formulating plans for the preparation of a report opposing the recommendation of the Forward Modesto Committee that Plan B be approved. He asked that the Council take no action on the matter until the Modesto Committee for Fair Play had an opportunity to file its report.

Mayor Marks read the following statements:

"The proposed relocation of 99 Highway at Modesto is of tremendous importance to every citizen of the community. The impact of a freeway on an area not only is great but remains for a long period of time. Alternate routes have been proposed by the State Division of Highways for consideration. The City Council of Modesto has employed Mr. Jack Faustman, outstanding Traffic Engineer, to assist in the analysis of these routes and their effect on and benefit to the community, to help answer questions which arise, and to point out questions which should be raised and cleared. The City Council has already asked the State to hold a public hearing on the proposed relocation before any final action is taken.

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On the basis that all of the people of Modesto are entitled to all of the facts regarding these proposals and any other possible alternatives, I believe that the State should be invited to hold public meetings in Modesto, prior to the formal hearing, for the purpose of presenting the basis upon which the proposals are made and answering questions regarding the proposals, their costs, their benefits, and their effects. We have contacted representatives of the Division of Highways and they have agreed to conduct such meetings, the dates to be arranged for the convenience of the people of Modesto and of the area. I therefore recommend to the Council that the Council formally request representatives of the State Division of Highways to conduct such meetings for the benefit of all."

It was agreed by the Council that the wishes of this committee would be taken into account in setting the meetings. Mayor Marks pointed out that the longer the delay in the decision, "the more some people would suffer". "The West side people," he stated, "owning property and operating businesses do not know where they stand. We represent all the people of this city and it is up to us to see that this problem is solved as soon as possible."

Councilman Arata urged that the committee be given sufficient time to conduct its study and prepare its report.

Councilman Mellis moved that the City of Modesto request the State Highway Commission to conduct informal public meetings before the formal hearing.

Mayor Marks polled the Council on the motion.

Councilman M. Adams indicated approval.

Councilman Arata recommended that the committee be allowed as much time as it needed to assemble its report.

Councilman Annan expressed the desire to obtain as much information as possible but that he did not wish the meetings delayed any longer than necessary.

Councilman R. Adams stated, "I do not know anything about Plan "A", "B" or "C" and I want more information and I believe everyone in the community does likewise. I concur with Councilman Arata that the formal hearing by the state should not be held tomorrow or next week. It would appear to me that all of us want the route which does the least harm to the least number of people and does the most good for the community."

Councilman Annan seconded the motion, which was unanimously carried.

It was agreed by the Council that the City Manager contact the State Highway Commission and arrange for a series of informal meetings and to invite representation from the City of Ceres, Schools, County, and the "Modesto Committee of Fair Play".

HEARING ON REQUEST FOR VARIANCE FROM PROVISIONS OF ORD. NO. 1086-N. S.  
TEXAS COMPANY

Mayor Marks declared the hearing open to consider the appeal of the Texas Company for modification of the provisions of Section 4, Ordinance No. 1086-N. S., as related to street openings, for a service station being constructed on the northeast corner of Tully and Roseburg Avenues.

Director of Public Works Ray reported that the request for two 36' driveways on Tully Road and two 36' driveways on Roseburg Avenue, had

been checked with company representative W. A. Davison, who had agreed to minor corrections in the plan, which he had recommended.

Mayor Marks declared the hearing closed.

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the request of Texas Company for variance from the provisions of Section 4 of Ordinance No. 1086-N. S. be approved, subject to the approval of the Director of Public Works as to specific details.

HEARING CONTINUED ON APPEAL OF D. L. CURTICE TO OPERATE REAL ESTATE AND INSURANCE OFFICE AT 1519 ENCINA AVENUE

This being the time set for the continuation of the hearing of May 5, 1954, on the appeal of Donald L. Curtice from the conditions stipulated by the Modesto City Planning Commission in the use permit to operate a real estate and insurance office at 1519 Encina Avenue, Mayor Marks declared the hearing open.

The City Manager reviewed the facts relating to the appeal. He stated that the basic point to be resolved is whether, at the time of annexation of the property to the city, there was a lawful non-conforming use being made of the property by Mr. Curtice. At a recent meeting with representatives of the County Planning Office, the City Manager stated, the city representatives were advised that the use being made of the premises at the time of annexation was not lawful under the existing county ordinances. That being the situation, he stated, there is no legal basis upon which Mr. Curtice could be allowed, under the existing city ordinance to continue his operations except as a limited home occupation unless the city zoning ordinance was amended to change the zoning.

Mr. Curtice contended that there were many other similar operations in the city and county which were being allowed to continue. The City Manager stated that each case had to be handled on the facts involved.

Councilman R. Adams asked what the county policy was on granting use permits from 1946 to 1948, and whether Mr. Curtice could have been granted a permit for his present business at that time.

Mr. W. Mitchell, Deputy County Counsel, legal adviser of the County Planning Commission, advised that prior to 1948 there was no land use control or zoning in the area in which Mr. Curtice operated his business.

The City Attorney pointed out that the use of the property prior to 1948 would have no bearing on the question since it has been conclusively established that the premises were not used for the principle purpose of a real estate and insurance office until 1953 when Mr. Curtice moved his office to this location and advertised in the local newspapers that his main office would be at 1519 Encina Avenue. The theory upon which the Planning Commission gave a home occupancy permit was on the basis of the prior home occupancy.

Councilman R. Adams stated that if the Council decided that this was a non-conforming type of business at the time of annexation, that there would be many others in the same category. "Before we are through", he stated, "we will have a considerable number of headaches and it will require a considerable amount of time."

The City Attorney pointed out that the city was faced with the situation here that if the applicant was granted a permit to operate a C-1 business in an R-1 zone that anyone could expect to go out in an R-1 district and set up a C-1 business.

Martin Schuller, County Planning Director, reviewed the status of the property at the time of annexation to the city. He stated that residents had reported to his office that a business was being operated at this location by Mr. Curtice and that he had contacted him and advised him that he must clear through the County Planning Office. Since the annexation was near completion, Mr. Schuller stated, the City Planning Office had been contacted and asked to carry on the case. The State Real Estate Commissioner had been advised, Mr. Schuller stated, that this use was not properly authorized.

Mr. Mitchell stated that the policy of the County Planning Commission had always been to keep the R-1, Single Family areas clean and clear of C-1 uses as much as possible so that when they were annexed to the city they would conform to the city standards. He stated that permits to operate real estate offices in the R-1 areas had been denied although permits had been cleared for the operation of music teachers and day nurseries. If it is going to be the policy of the city to grant permits to operate real estate offices in the R-1 district, the county should know it so that everyone can be treated the same. The County Planning Commission is constantly being "pressured" to clear home occupancies, he stated, but it believes that property owners in R-1 districts wish C-1 business operations excluded, besides many deeds restrict such uses.

Mayor Marks moved, seconded by Councilman M. Adams, that the appeal be denied and that Mr. Curtice be given a reasonable period of time to complete such arrangements.

Mr. Curtice asked whether he could continue his operation at this location if he discontinued the practice of hiring personnel. He was advised by the City Attorney that under the terms of the permit issued by the City Planning Commission that it would be necessary for him to maintain his main office elsewhere.

When asked by Mr. Curtice if he discontinued his real estate operations and continued the insurance business only whether he could continue at this location, the City Attorney advised that the limitations would still apply.

Councilman Mellis recommended that the Council be polled to determine if a 90 day period could be granted to Mr. Curtice to change operations.

The City Attorney pointed out that any substantial modification of the recommendation of the City Planning Commission would constitute a violation of the law and suggested that a reasonable time to make the adjustment be established at 60 days.

Mayor Marks amended his motion to provide that a period of 60 days be allowed Mr. Curtice to make the necessary adjustments to conform with the limited use permit granted him by the City Planning Commission. M. Adams approved the amendment, and the motion as amended was unanimously carried.

The hearing was declared closed by Mayor Marks

**RESOLUTION OFFERING OFFICE SPACE TO JUNIOR CHAMBER OF COMMERCE INTERNATIONAL AND TO THE CALIFORNIA JUNIOR CHAMBER OF COMMERCE IN THE OLD JOHN MUIR SCHOOL BUILDING OWNED BY THE CITY**

Representatives from the local Junior Chamber of Commerce presented a resolution for the consideration of the Council, which was read

by Lew Graham, providing for the offer by the city of office space in the old John Muir School building to the Junior Chamber of Commerce International and to the California Junior Chamber of Commerce for headquarters use pending the selection of a permanent site and the construction of suitable buildings. The resolution also provided for the full cooperation of the Council to J. C. I. in obtaining a permanent site and the necessary facilities in the city for the headquarters of J. C. I.

Offers made by the Council to other local organizations to use the building were discussed generally. Continued interest in using the building had been indicated by both the Boy Scouts and the United Crusade organization, it was reported.

Phil Humphrey indicated that the local Junior Chamber of Commerce together with other organizations would make the reconditioning of the school building their community project. He stated that officials of the J. C. I. planned to be present this week end during the Relays and further discussions would be held and plans formulated.

Mayor Marks recommended that if other organizations did not make definite arrangements to use a portion of the building that the entire building be turned over to the J. C. I. The possibility of the Junior Chamber of Commerce having the responsibility of the whole building and leasing it out to other interested organizations was also discussed.

Councilman Annan recommended that the other organizations which had expressed interest in using the building should be notified of the contemplated action by the Council.

It was agreed by the Council that if other organizations had not cleared their intention to use the old school building within a 60 day period that consideration be given to turning the whole building over to the Junior Chamber International. Councilman R. Adams introduced

#### RESOLUTION NO. 54-148

seconded by Councilman Arata, offering office space in the old John Muir School building to the Junior Chamber of Commerce International and to the California Junior Chamber of Commerce for headquarters use pending the selection of a permanent site and the construction of suitable buildings by the Junior Chamber of Commerce International within the City of Modesto for such purposes and that the Council does hereby offer its full cooperation to J. C. I. in obtaining a permanent site and the necessary facilities in the City of Modesto for the headquarters of J. C. I., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

#### AWARD BID FOR CONSTRUCTION OF SOUTH SECTION OF WEST SANITARY TRUNK LINE TO STOCKTON CONSTRUCTION COMPANY

The City Manager reported that there were still some easements to be cleared in the right of way for the south section of the West Sanitary Trunk line, some of which would have to be cleared through condemnation suits, nevertheless, he recommended that the bid of \$124,739.68, which had been received from the Stockton Construction Company be accepted.

The City Attorney pointed out the risk involved in awarding the bid and starting construction before all the rights of way were secured.

However, he stated, in his opinion the city should be able to obtain the rights of way by the time they are needed.

Councilman M. Adams introduced

RESOLUTION NO. 54-145

seconded by Councilman Arata, accepting the bid of the Stockton Construction Company of \$124,739.68, for the construction of the south section of the west sanitary trunk sewer and authorizing the execution of an agreement for the completion of the work by the city's authorized officials, which resolution was regular adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ACCEPT BID OF TANNER CONSTRUCTION COMPANY FOR CONSTRUCTION OF CURB AND GUTTER AT ROOSEVELT PARK

Tabulation of the two bids received for the construction of curb and gutter at Roosevelt Park, which had been opened at 2:00 P. M., May 17, was presented to the Council for consideration. The City Manager stated that the bid of Tanner Construction Company of \$3,382.80, was recommended for acceptance, as it was the lowest submitted. He stated that it would be necessary to transfer funds to accomplish it but that the work should be done as soon as possible.

Councilman Arata introduced

RESOLUTION NO. 54-146

seconded by Councilman Annan, accepting the bid of Tanner Construction Company for the construction of curb and gutter at Roosevelt Park, as it was the lowest bid received and authorizing execution of contract agreement for completion of the work by the city's authorized officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

APPROVE SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR PAINTING AT McHENRY LIBRARY

Specifications for the painting at McHenry Library were outlined by Carl Hamilton, Librarian. Councilman Annan introduced

RESOLUTION NO. 54-149

seconded by Councilman Arata, approving specification for the painting at the McHenry Library and authorizing the calling for bids to be opened at 2:00 P. M., June 7, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

FINAL ADOPTION ORDINANCE NO. 1128-N. S. (COUNCIL MEETING PLACE)

Ordinance No. 1128-N. S. entitled: "AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 1084-N. S. OF THE CITY OF MODESTO ENTITLED 'AN ORDINANCE PROVIDING THE TIME, PLACE, AND PROCEDURE FOR CONDUCTING MEETINGS OF THE CITY COUNCIL OF THE CITY OF MODESTO'", having been heretofore introduced and ordered printed and published at the regular meeting of May 12, 1954, Councilman R. Adams moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

CONSIDERATION OF PENALTY PROVISION FOR ORD. NO. 487-N. S. (BUSINESS LICENSE ORDINANCE)

Consideration of adoption of an amendment to Ordinance No. 487-N. S. (Business License) to provide uniformity with the Sales and Use Tax Ordinance in the penalty provision was held over for one week to enable the City Attorney to study the report of the Finance Director.

ACCEPT CONSTRUCTION OF DIGESTER AND DETRITOR FROM KE-STON & MUNY AUTHORIZE PROGRESS PAYMENT AND FILING OF NOTICE OF COMPLETION WITH COUNTY RECORDER

The City Manager reported that contractors Ke-Ston & Muny had completed construction of the digester and detritor units at the sewage disposal plant and that acceptance of the work had been recommended by the Director of Public Works. Councilman Annan introduced

RESOLUTION NO. 54-147

seconded by Councilman R. Adams, accepting the construction of the digester and detritor units at the sewage disposal plant as completed by contractors Ke-Ston & Muny, and authorizing the recording of Notice of Completion with the County Recorder, and authorizing payments as provided in the contract, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REPORT ON CITY SERVICES TO PROPOSED McHENRY VILLAGE SUBDIVISION

A report was filed by the Director of Public Works on the approximate cost of furnishing city services to the proposed McHenry Village Subdivision #1, a copy of which is on file in the office of the City Clerk.

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Mr. St. John of Coddling Homes stated that it would be approximately two months before building was started.

Councilman R. Adams moved, seconded by Councilman Mellis, and it was unanimously carried that the report and recommendations of the Director of Public Works for the furnishing of water and sewer service to the subdivision be approved.

ACCEPT UTILITY EASEMENT AGREEMENT FROM ABRAHAM BULGHERONI (SOUTH SECTION OF WEST SANITARY SEWER LINE)

Upon the recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-150

seconded by Councilman M. Adams, accepting utility easement agreement for the south section of the west sanitary sewer line 40 feet wide in the Southeast quarter of the Southwest quarter of Section 31 Twp 3 S, R 9 E, M. D. B. & M., authorizing payment of \$75.00 for severance damages, and directing the City Clerk to record said easement with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

RESOLUTION ESTABLISHING PROCEDURE FOR PARK RESERVATIONS

The City Manager outlined the provisions of a resolution proposed to regulate the reservation of picnic facilities in the various parks of the city. Councilman Arata introduced

RESOLUTION NO. 54-151

seconded by Councilman Annan, establishing regulations for the reservation and use of picnic tables, barbecue pits, and such other picnic facilities as may be provided in the public parks of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

APPROVE AGREEMENT FOR TESTING PROGRAM AT HAYWARD SEWER DISPOSAL PLANT

Terms of the proposed agreement with Dorr Company, Harry N. Jenks and the City of Hayward for the testing program at the Hayward Sewer Disposal Plant were outlined by the City Manager. Councilman M. Adams introduced

RESOLUTION NO. 54-152

seconded by Councilman Annan, approving agreement between the City of Modesto and Dorr Company, Harry N. Jenks and City of Hayward for a testing

program at the Hayward Sewer Disposal Plant, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

RESCIND RES. NO. 54-66 ESTABLISH TAXICAB STAND NORTH SIDE OF G STREET  
 GREYHOUND BUS DEPOT

The City Attorney stated that Res. No. 54-66 adopted by the Council on March 3, 1954, provided for the temporary location of the taxi stand for Joe's Taxi on the North side of G Street between Tenth and Eleventh Streets until July 3, during period of remodeling of the Greyhound Bus Depot. Since the remodeling has progressed to the point where there is no longer any need for the temporary taxicab stand, he stated, cancellation of Res. No. 54-66 and re-establishing of the stand on Tenth Street in front of the Bus Depot, is in order. Councilman Annan introduced

RESOLUTION NO. 54-153

seconded by Councilman Mellis, rescinding Resolution No. 54-66 and authorizing the re-establishing of taxicab stand for Joe's Taxi on the West side of Tenth Street in front of the Greyhound Bus Depot, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

The City Manager stated that the remodeling of the Greyhound Bus Depot had been handled in a manner which minimized traffic problems.

HOLD OVER APPROVAL FINAL MAP OF ASHFORD TRACT NO. 1

Approval of the final map for the Ashford Tract No. 1 was held over for correction in the description.

APPROVE PROPOSED 1954-55 BUDGET FOR EXPENDITURES OF GAS TAX ALLOCATION ON  
 MAJOR CITY STREETS

The City Manager presented for Council consideration proposed 1954-55 budget for expenditures of gas tax allocation on Major City Streets. The proposed budget called for general maintenance of major city streets and secondary streets and for the paving of the center strip of College Avenue from Coldwell Avenue to Briggsmore Avenue; acquisition of rights of way on College Avenue; and the construction of a bridge across M. I. D. Lateral No. 3 connecting College Avenue

Councilman R. Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that the proposed budget be approved and forwarded to the State Department of Public Works, Highway Division.

RESOLUTION INSTALLING BUS ZONE AT COUNTY WELFARE OFFICE AT SCENIC DRIVE

The City Manager reported that the County had requested installation of a bus loading zone at the County Welfare Office.

Councilman Mellis introduced

RESOLUTION NO. 54-154

seconded by Councilman Annan, establishing a bus loading zone on the South side of Scenic Drive commencing 119 feet West of the city limit boundary marker and continuing West on the South side of Scenic Drive for a distance of 50 feet, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

RESOLUTION ESTABLISHING CROSSWALK ON SCENIC DRIVE NEAR COUNTY WELFARE OFFICE

The City Manager reported that Police Chief Neel had recommended the establishing of a crosswalk on Scenic Drive near the County Welfare Office. Councilman R. Adams introduced

RESOLUTION NO. 54-155

seconded by Councilman Mellis, approving the establishing of a crosswalk 8 feet in width across Scenic Drive, commencing 207 feet West of the city limit boundary marker and extending to a point 215 feet West of the city limit boundary marker, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REVISION OF AGREEMENT WITH STANDARD OIL COMPANY AT AIRPORT

The City Attorney outlined the proposed revision of the existing agreement between the City and Standard Oil Company relating to gasoline facilities at the airport. The revised agreement, he stated, which has been written on a one year basis, provides for the transfer of the underground facilities of the company to the city, but reserves the right of the Company to repurchase on terms of the lease. The company proposes to use a large gasoline truck to furnish gasoline to airplanes, since the maintaining of the underground facilities is more expensive, due to county taxes. The agreement would not be exclusive, the City Attorney stated, and the company claims that better gasoline service can be given to the users at the airport.

Councilman Mellis introduced

RESOLUTION NO. 54-156

seconded by Councilman R. Adams, approving the proposed lease agreement and the bill of sale between the City and the Standard Oil Company and authorizing execution by the authorized City officials, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

RENEWAL OF LEASE WITH W. G. DUNLOP HANGAR (HAWKE) AT AIRPORT

Upon the recommendation of the City Manager, Councilman Annan introduced

RESOLUTION NO. 54-154

seconded by Councilman Arata, authorizing the renewal of lease agreement between the City and W. G. Dunlop for the rental of the Hawke Hangar at the Municipal Airport, at a monthly rental of \$100, for a term of one year beginning April 30, 1954, and authorizing the execution of lease by the authorized City officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

RENEWAL OF LEASE FOR RENTAL OF OFFICE BUILDING NO. 2 AT AIRPORT WITH ROBERT PHILLIPS

Upon the recommendation of the City Manager, Councilman M. Adams introduced

RESOLUTION NO. 54-158

seconded by Councilman Mellis, authorizing the renewal of lease agreement between the City and Robert Phillips for the rental of Office Building No. 2 located on the Modesto Municipal Airport for a term of one year beginning July 1, 1954, at a monthly rental of \$25.00, which resolution was regularly adopted by the following votes:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ACCEPT DEED FROM ROBERT P. BOMBERGER (WIDENING OF TULLY AVENUE)

The City Attorney presented for the Council's consideration a grant deed from Robert P. Bomberger covering land to be used in the widening of Tully Avenue. Councilman Mellis introduced

RESOLUTION NO. 54-159

seconded by Councilman R. Adams, accepting grant deed from Robert P. and Muriel I. Bomberger on a portion of land to be used for widening of Tully Avenue on the East side of Roseburg Avenue, and authorizing the recording of said deed with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REPORT FROM COUNCIL COMMITTEE ON MEETING WITH MODESTO IRRIGATION DISTRICT  
RELATING TO LOAN OF TRANSFORMER FOR MODESTO STATE HOSPITAL SOFTBALL FIELD

Councilman Arata reported on the meeting of the Council committee with the Board of Directors of the Modesto Irrigation District regarding the loan of a transformer for the Modesto State Hospital Softball Field. He stated that the District had adopted a resolution agreeing to loan and install the necessary transformer at the field.

FURTHER REPORT ON CLAIM FOR HOLIDAY PAY FOR POLICE AND FIRE PERSONNEL

Mayor Marks stated that some of the Council members had indicated they would like to know, regardless of the legal status, what the opinion was of former Council members, regarding the claim for holiday pay filed by Police personnel. A suggestion had been offered by one of the Council members, he stated, that a letter be written to former Council members asking them for information regarding the background which would be helpful to the present Council in making its decision on the claim before them.

The City Manager suggested that any background regarding the adoption and administration of Resolution No. 6133-N. S., providing for holiday pay to City personnel, adopted March 1, 1944, would be helpful.

The City Attorney stated that he did not see what would be gained by this suggestion since from a strict legal point of view, what was in the mind of somebody when they passed the resolution would not have any legal bearing on the effect of the resolution unless the meaning of the language was not clear.

Councilman Annan stated that regardless of what value it would be in court, he would like to know what the intention of the Council was. He stated that he would like to have a letter go out from the City Attorney to each former Council member and the City Engineer at that time, to get any information which might be helpful in guiding the present Council in the settlement of this claim.

Councilman Mellis questioned whether the former Council members would remember what they did so many years ago.

Councilman Annan stated, "The point that is important to me is that the resolution states that the employees of the City of Modesto shall have the following holidays off without loss of pay but it does not say how the matter is to be handled later on in the event that certain individuals do not take these holidays. In other words, it is not clear to me as a Councilman as to what action should be taken. This can run into a large sum of money and I want to be definitely certain before we make any decision in this matter."

The City Manager stated that information given by department heads and city personnel indicated that a number of informal discussions with the Council had taken place regarding the holidays to be granted fire and police department personnel. He stated, "I do not see how we can proceed until we have every fact, every bit of information we can get on the background. We should know whether these department heads proceeded with full knowledge that there was no intention to grant the

same holidays to all city personnel. This Council should have every bit of information they can obtain from anyone about this before they are asked to take any action. The former Council passed this resolution; as to whether they knew what this resolution was, whether they understood the implication of it, I do not know. This Council is not responsible for what happened but it is responsible for clearing it up. It is our obligation to get for you, every bit of information that will help, in view of the statements made by department heads and others. In fairness to the Council members involved at that time, I believe they should be given an opportunity to present these facts."

Councilman M. Adams pointed out that if this Council did not have all the facts that there might be a possibility that some employee would turn up some information or facts later on which would bring the whole matter up again.

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried that the City Clerk be directed to write to former Council members and City officials, giving them a summary of the facts and ask them for any information on the background of the adoption of Resolution No. 6133-N. S. which might be helpful to the present Council in making a decision.

REPLACEMENT OF FARM-ALL INTERNATIONAL HARVESTER

Upon the recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-144

seconded by Councilman M. Adams, approving appropriation transfer from the salaries and wages of \$1,010.00, and mowing attachment of \$350.00 of the Public Works Department budget for the purchase of a tractor with mowing attachment needed to replace old tractor so that the expanded park program can be carried on, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ADJOURNMENT

Councilman Arata moved, seconded by Councilman M. Adams, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 6:15 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. in the Council Chambers of the City of Modesto at 717 Tenth Street, as provided by Ordinance No. 1084-N. S.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill  
and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. F. B. Loper of the College Avenue Congregational Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the adjourned meeting of May 18, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM MODESTO STATE HOSPITAL BOARD OF TRUSTEES EXPRESSING APPRECIATION TO COUNCIL FOR ASSISTANCE IN OBTAINING LIGHTING EQUIPMENT FOR PATIENTS' BASEBALL FIELD AT THE HOSPITAL

A letter was read and ordered filed, from the Board of Trustees of the Modesto State Hospital expressing appreciation to the Council for the assistance given in obtaining lighting equipment for the patients' baseball field at the hospital.

#### LETTER FROM NATIONAL SAFETY COUNCIL RE: REGARDING ITS RELATIONSHIP WITH THE CALIFORNIA SAFETY COUNCIL, INC.

A letter was read and ordered filed from the National Safety Council advising that the California Safety Council was not a member of the National Safety Council.

#### APPLICATION OF AGNES J. CHANDLER FOR PERMIT TO OPERATE A TAXICAB BUSINESS

An application for permit to operate a taxicab, filed by Agnes J. Chandler, was referred to the Chief of Police for investigation and report, as provided by Ordinance No. 753-N. S. Councilman Mellis moved, seconded by Councilman Annan, and it was unanimously carried, that the public hearing be set for 8:00 P. M., June 9, in the Council Chambers, 14th & I Streets.

#### LETTER FROM E. C. CRANDALL RELATING LIMITED PARKING ON L STREET BETWEEN TENTH AND NINTH STREETS

A letter to Mayor Marks from E. C. Crandall relating to limited parking provision on L Street between Tenth and Ninth Streets, was read to the Council.

#### AWARD BID FOR TWO PUMP HOUSES STATIONS #1 and #17 TO EDWARD A. TOMLINSON

Copies of the tabulation of the bids received for the construction of pump houses at pump stations No. 1 and 17, which had been opened at 2:00 P. M., May 24, were distributed to Council members for their study. Recommendation that the low bid of \$2,580 submitted by Edward A. Tomlinson be accepted, was made by Director of Public Works Ray. Councilman Annan introduced

RESOLUTION NO. 54-160

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seconded by Councilman Merrill, accepting the bid of \$2,580 of Edward A. Tomlinson for the construction of pump houses at pump stations No. 1 and 17, as it was the lowest bid submitted, and authorizing the execution of contract by the city's authorized officials for the completion of the work, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE SPECIFICATIONS AUTHORIZE CALL FOR BIDS ON CONSTRUCTION OF COMFORT STATIONS AT JUNIOR COLLEGE

The City Manager stated that the location and type of comfort station facilities to be built at the Modesto Junior College Softball Field had been agreed upon informally, but that the School Board had not formally cleared the matter. The contract for the construction of the station, he stated, will not be awarded formally until approval has been received from the schools. Councilman Merrill introduced

RESOLUTION NO. 54-162

seconded by Councilman R. Adams, approving the specifications for the construction of comfort station at Modesto Junior College and authorize the calling for bids for furnishing all labor, materials and equipment necessary, said bids to be opened at 3:00 P. M., June 7, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

CONSIDERATION OF ORDINANCE SETTING UP INDUSTRIAL WASTE CHARGES

The City Manager reported on the meetings which had been held and which were being scheduled with the industrialists, and the sewer committee of the Council on a new industrial sewer rate ordinance. The ordinance establishing the new rates will be ready for Council's consideration by the next meeting, he reported. He pointed out that the present ordinance establishing industrial rates will expire on May 31, and the new ordinance will not be considered until June 2, but that it can be made retroactive as was done last year. He reported that one firm has been processing leek for which no rate has been established, and it will be necessary to adopt a resolution, as provided by the ordinance, establishing the rate for processing leek .

The City Attorney read the proposed resolution and Councilman M. Adams introduced

RESOLUTION NO. 54-163

seconded by Councilman Arata, establishing the sewer service charge for processing leek in the city as \$3.00 minimum charge per month and \$.15 per raw or green ton, retroactive commencing on and after April 1, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ORDINANCE AMENDING ORDINANCE NO. 487-N. S. (BUSINESS LICENSE) RE: PENALTY PROVISIONS AND TIME OF PAYMENT

City Attorney Grimes outlined a minor change which had been made in the proposed ordinance amending Ordinance 487-N. S. (Business License) relating to penalty provisions and time of payment, subsequent to its submission to the Council members for their study. Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 1129-N.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 487-N. S. OF THE CITY OF MODESTO ENTITLED, 'AN ORDINANCE PROVIDING FOR LICENSING AND REGULATING THE CARRYING ON OF CERTAIN PROFESSIONS, TRADES, CALLINGS AND OCCUPATIONS IN THE CITY OF MODESTO, PROVIDING THE METHOD OF COLLECTING SUCH LICENSES AND REPEALING CERTAIN ORDINANCES' AS AMENDED, BY AMENDING SECTION 8 THEREOF AND BY ADDING SECTION 10 THERETO, AND REPEALING ORDINANCE NOS. 508-N.S., 532-N.S. and 540-N. S.'" which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVAL OF FINAL MAP OF ASHFORD TRACT NO. 1

The City Manager reported that C. Boyce Ashford had paid the required fee of \$321.10 for the approval of Ashford Tract #1, that the map was in order and the agreement had been executed by Mr. and Mrs. Ashford, and the necessary bond filed. Councilman M. Adams introduced

RESOLUTION NO. 54-161

seconded by Councilman Arata, approving final map of Ashford Tract No. 1 Subdivision, accepting the streets, alleys and easements as shown thereon on behalf of the public for public use, authorizing the City Clerk to certify the map, and authorizing the execution of an agreement with subdividers as required by section 6.5 of Ordinance No. 1041-N. S., which resolution was regularly adopted by the following vote;

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE EXTENSION OF TEMPORARY APPOINTMENTS FOR ROBERT COOK, JERALDINE MULLER, DOYLE LANGFORD

Upon the recommendation of the City Manager, Councilman Annan moved, seconded by Councilman Mellis, and it was unanimously carried that the temporary appointments of Robert Cook and Jeraldine Muller (Forward Modesto Committee) and Doyle Langford (Collector in the Finance Department) be extended for a period of six months.

ACCEPT DONATION FROM MODESTO SOFTBALL ASS'N FOR MADDUX YOUTH CENTER FURNISHING FUND AND AUTHORIZING PLACING IN FUND AND APPROPRIATION EXPENDITURE FOR BASKETBALL STANDARDS

A letter from the Modesto Softball Association, enclosing a check for \$167.50 as donation to the L. J. Maddux Youth Center Furnishing Fund to be expended for basketball standards, was read.

Councilman R. Adams introduced

RESOLUTION NO. 54-164

seconded by Councilman Mellis, accepting the donation of \$167.50 from the Modesto Softball Association for the L. J. Maddux Youth Center Furnishing Fund, directing that a letter of appreciation be sent to the Association, authorizing the depositing of the donation in the aforesaid fund and authorizing the appropriation of said donation to be expended for the purpose for which the fund was established, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

REPORT ON INTERSECTION OF KANSAS AVENUE AND U. S. HIGHWAY 99 BY STATE DIVISION OF HIGHWAYS

The City Manager read a letter, dated May 18, 1954, from the State Division of Highways, District X to Marvin Ray, Director of Public Works relating to channelizing the intersection of Kansas Avenue and U. S. Highway 99. This letter, the City Manager reported was in reply to the city's request for a further check on the intersection due to an accident in which a Mrs. Fern Forrest had been involved.

Since only one accident had occurred at this intersection, during the period January 1, 1952 to February 9, 1954, the state contended that expenditure of funds to improve traffic conditions could not be justified. Further consideration to installation of corrective safety measures would be given at a later date, the letter advised.

It was agreed by the Council that the City Clerk should send a copy of this letter to Mrs. Forrest.

ACCEPT UTILITY EASEMENT FROM MODESTO IRRIGATION DISTRICT ON SOUTH SECTION OF WEST SANITARY SEWER LINE

The City Attorney presented for Council consideration utility easement agreement from the Modesto Irrigation District covering a portion of land within the district's right of way of lateral No. 5, relating to the south section of the west sanitary trunk sewer line now being constructed by the city.

Councilman Arata introduced

RESOLUTION NO. 54-165

seconded by Councilman M. Adams, approving and accepting the utility easement agreement between the city and the Modesto Irrigation District covering property within the district's right of way of lateral No. 5, and authorizing its recording with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

The City Manager expressed appreciation to the members of the County Board of Supervisor and County Engineer Deatsch, who were present, for the cooperation given by the County in clearing rights of way on the county road involved in the south section of the west sanitary sewer trunk line.

REPORT ON COST OF CHANGING NAME OF BAND TO "MODESTO BAND"

A letter from Milo M. Schrock, President of the Modesto Band

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estimating the cost for the changing of the name of the Stanislaus County Band to Modesto Band to be approximately \$479.08, was read. The City Manager recommended that \$500 be appropriated from General Reserve to Music & Promotion Budget, Stanislaus County Boys' Band. Councilman M. Adams introduced

RESOLUTION NO. 54-166

seconded by Councilman Mellis approving appropriation transfer of \$500 from "General Reserve" to "Music and Promotion-Stanislaus County Boys' Band" to defray the cost for the changing of the name of the band to Modesto Band, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

REPORT ON ACTION TAKEN ON TRAFFIC PROBLEM IN AREA NEAR PRINCETON, TRINITY AND YALE AVENUES

The City Manager reported that the Police Department had been working with the residents of the Princeton, Yale and Trinity Avenues area, who had recently appeared before the Council relative to a traffic problem which existed in this area due to "speeders." There has been some special enforcement of traffic regulations in this area, he stated, and the residents have reported improvement in the situation. The City Manager indicated that the checking would continue if it is feasible.

REPORT ON REQUEST BY MODESTO IRRIGATION DISTRICT TO INSTALL TWO WELLS ON ITS PROPERTY AT ELEVENTH AND M STREETS

A request of the Modesto Irrigation District to install two deep wells for use in air heating and cooling of the new district office building being constructed on the southwest corner of 11th and M Streets had been investigated by the Public Works Department, the City Manager reported. No objections would be offered by the city to the installation of these wells, he stated, providing that (a) each well is located not nearer than 50 feet from a sanitary sewer lateral and (b) the installation is so made that it will be impossible to connect with the domestic water and sewer systems for the building. It was moved by Councilman Mellis, seconded by Councilman R. Adams, and unanimously carried, that permit be granted to the Modesto Irrigation District to install the two deep wells on their property at 11th and M Streets under the conditions outlined above and subject to any required approval of the State Department of Public Health.

CLEAR LOCATION OF COUNCIL MEETING OF JUNE 2, 1954

It was agreed by the Council members that the regular Council meeting to be held on June 2, should be held in the Council Chambers at 717 Tenth Street instead of the new Chambers established in the basement of the McHenry Library. Since Mayor Marks, Councilmen Annan and Mellis would be attending the Mayor's and Councilmen's department of the League, meeting in Santa Barbara and wished to leave by 4:30 P. M. on June 2, it was agreed that there should be a special meeting called for 2:30 P. M., June 2, to discuss the matters scheduled and that it be carried over until the regular meeting time of 4:00 P. M.

REPORT ON STATUS OF AMENDMENTS TO THE PLUMBING CODE ORDINANCE AND ENFORCEMENT OF THE CODE

The City Manager reported that various meetings had been held with the Council plumbing committee and representatives of the plumbing

concerns and appliance dealers in the city to clear the problem of the permit and inspection on appliances requiring a connection to a water distribution system or gas distribution system as provided by Plumbing Code Ordinance No. 1100-N. S. Up to the present time, he stated, an answer to this problem has not been agreed upon and there is some confusion as to the city's position, and to what degree the ordinance should be enforced as relating to appliance installation during the interim period. He stated that it was (and had been) the position of the administrative officials of the city that normal conformance with the ordinance would be required.

After a general discussion by the Council it was agreed that all the appliance dealers in the city should be advised that the provisions of the Plumbing Code as they now exist on this subject are fully effective and will be enforced until such time as they are changed or modified.

CITY ATTORNEY DISCUSS MINOR CHANGE IN REVISED AGREEMENT WITH STANDARD OIL COMPANY AT AIRPORT

The City Attorney reported that the revised agreement with the Standard Oil Company for the sale of gasoline at the airport, which had been approved by the Council at its meeting of May 19, had been forwarded to the company for approval. He outlined a minor change which had been added to the agreement by the company, which made it clear that the company is not to be responsible for maintaining the underground equipment which is being turned over to the city. The City Attorney stated that he could see no objection to the clause which had been added. It was moved by Councilman Arata, seconded by Councilman Annan and unanimously carried, that the change made in the revised agreement by the Standard Oil Company be approved.

MAYOR MARKS DECLARE TEN MINUTE RECESS

Mayor Marks declared a ten minute recess at this time (8:30 P.M.)

The Council reconvened at 8:40 P. M.

PRELIMINARY REPORT OF TRAFFIC ENGINEER ON EVALUATION OF PROPOSALS BY STATE FOR LOCATION OF PROPOSED FREEWAY

Mayor Marks asked that the following statement be included in the minutes so that it could be a part of the records which could be referred to later in the consideration of the location of the proposed freeway in the City of Modesto.

"The proposed freeway is so important to the people of Modesto and to the whole community that we believe every single fact should be brought out and every single factor should be carefully evaluated. The City has employed Mr. Faustman, Traffic Engineer of the City of Sacramento and Mr. Ott, Planning Director of the City of Stockton, to evaluate the proposals of the State Division of Highways for the relocation of Highway 99.

Mr. Ott and Mr. Faustman both have had extensive experience relating to the location of freeways and their effects on communities. Each has been asked to appraise the values and disadvantages, the costs and the benefits of each of the proposals in the light of what is best for the people of this community. While under the state law the State has the final legal responsibility for the determination of the location of the route, we believe the City Council has an obligation to be sure that all of the facts are presented to the people and to do everything within its power to be sure that the route is adopted which is best for the people both now and in the future.

Mr. Faustman has been asked to analyze the proposals primarily from the standpoint of the handling of traffic, although even in doing this he must

take into account other factors. Mr. Ott has been asked to take into account primarily the social and economic impact on the community, the effect upon the people of Modesto, upon property values on future development, and long-range plans. He has been asked to submit this report as soon as possible. We have asked Mr. Faustman to present tonight a preliminary report of his findings. He will submit to the Council shortly a report which will be duplicated so that every interested Modestan may have a copy. This is the first of a series of meetings the city is arranging on the State's proposals, so that the people of Modesto may be fully informed. The city has requested that the State hold a formal hearing before it makes the final decision regarding the route.

The city has also made arrangements for the Division of Highways to hold an informal public meeting on their proposals next Tuesday evening, June 1, at 7:30 P. M. at the Youth Center in Westside Park. Additional meetings will be arranged if they are desired, so that everyone can get the facts regarding this important proposal."

Mayor Marks introduced Edward L. Tinney, District Advance Planning Engineer, State Division of Highways and D. J. Faustman, Traffic Engineer of Sacramento.

Mr. Faustman stated that the engineering facts which he used in his studies were obtained from the Division of State Highways in whose hands the decision regarding the location of the freeway will eventually fall. This factual data which the division has developed, he stated, has been obtained by a procedure used by cities over all the state and country, which was developed by the United States Bureau of Public Roads. It is true, he noted, that these facts can sometimes be interpreted in different ways. The various factors to be considered, he stated, in locating a freeway are:

1. Traffic Service: A freeway is built to serve the motorist, the travelling public. The fundamental principle of the state government is that public money should be spent in the public interest, to serve the greatest number of people. It is the state's responsibility to build highways with the gas tax money to serve the greatest number of motorist.
2. Costs: In talking about traffic service we must bear in mind facilities that insure service to the traveling public. It costs more to travel on a city street than an open highway.
3. Accident Rate: Accident reduction, not only in your own city but state wide is an important objective. All agree that the route which eliminates the most accidents should be looked at very carefully.
4. Effect of these various routes on the city's street system: He pointed out that prime consideration should be given to the existing traffic and accident rate on Ninth Street, Seventh Street and Crows Landing Road.
5. Cost of these various programs, to the city and county, since some of these interconnecting roads must be paid for by the community.
6. Effect of the various routes on the accessibility to schools.
7. The problem of property value on abutting property.

The Highway Department secures its data regarding traffic, he stated, by going out and asking the motorists, stopping traffic and asking them where they came from and where they were going. In the case of this freeway, he stated, the highway department started collecting data in 1948, and have been continually checking and bringing it up to date.

Traffic was stopped where Hatch Road crosses the present U. S. 99 Highway, and from the records obtained it was determined that 13% of the motorists were going out west of the city on the Maze Road, 20% was destined for a point beyond Modesto, less than 4% were going north on McHenry Avenue, the balance of traffic 63% was destined somewhere in or about the City of Modesto. Any freeway which is built should be designed primarily to serve the most people. Of that 63% destined for Modesto only one car out of 10 had a destination in Modesto's area west of the S. P. tracks, leaving about 55% with a destination east of the tracks, but still in the Modesto area. of the 55%, 30% of the cars, about one car of each 3, were destined for the central business district. That one third were destined for the central business district, is an important factor.

"If you select Rt. A," he stated, "you are going to accomodate the 20% of traffic going to the north, 13% going to the west, but you are then confronted with the problem of the 50% coming in on Paradise Road, to the business district. The same thing is true about plan C, which is a compromise between plans A and B. Plan B would appear, based on service to traffic, to offer the greatest benefit in bringing people to Ninth Street and dropping them into the business district.

Any of these three routes constitutes a basic route as far as truck traffic is concerned and is suitable for through traffic. From a standpoint of serving traffic, Plan B seems to have some advantages. Plan A would double the traffic on Ninth Street in 20 years, and on Plan C the conditions are similar. Under Plan B the traffic on Ninth Street would be approximately the same in 20 years as it is now.

The cost of operating a car on a street where you are constantly starting and stopping, as against constant movement is considered. In other words, Plan B does offer larger savings---gas and oil wise. The accident rate over the projected freeway---from Ceres to the North U. S. 99 Highway limit along Ninth Street is 6 accidents for every one million vehicle mile, while on freeways it is one fourth of what it would be on a city street system. So if Plan B takes a lot of traffic off of Ninth Street, the accident rate would go down considerably on that street. In Plan A the road accidents would go up on Paradise Road, Plan C would bring more people over the Seventh Street Bridge. Plan B has the advantage of pulling the Crows Landing traffic onto the freeway new bridge which would relieve the need for any improvement to the Seventh Street bridge and widening of Seventh Street.

He pointed out that the time schedule for the completion of the freeway was a matter of concern. If the state builds Plan A, which will be mostly through new country; it will require new alignment. The entire route must be completed before it can be used. Under Plan B, one way streets could be established on Fifth and Sixth Street, which would relieve traffic on Ninth Street and get the through traffic out of the city faster, and it could be completed one or two years before plan A or C. It would be approximately 6 or 7 years before Plan B would be available and 7 or 8 years before A and C would be available.

Under any of these plans, he stated, we are going to have trucks running around. The state highway department records indicate that 12% of the total traffic on 99 highway is trucks---2400 trucks coming through Modesto represents quite a noise. All of the trucks are not through trucks---a certain amount move out of the down town area to serve the people of the south and north. Three hundred of this total head off to the west---going and coming; 500 trucks are through truck traffic---200 stay in areas west of the tracks and 1300 of them that are coming somewhere east of S. P. tracks stop in Modesto. If Plan A is used and the trucks and other traffic still continue to use Ninth Street, sometime in the next 10 years---something is going to have to be done. The first thing probably that will be done is to remove parking entirely from Ninth Street, which the Ninth

Street Merchants will not like. He estimated the cost to widen Ninth Street to a six lane highway to be approximately \$1,000,000. If Plan A is adopted it will also be necessary to widen Paradise Road and make H and I one-way streets to get the traffic coming off of the freeway to the central business district. Not including grade separation, all this would cost the community approximately \$1,000,000 and the same cost would be true if plan C was adopted. Plan B runs parallel to the existing city streets and will be depressed through the city, he stated, with the five interchange streets proposed, Tuolumne, H, I, L and Kansas, there would be less problems in the city than under the other plans. Sooner or later the problem of grade separation over the railroad will have to be considered and on two streets, H and I, the State will, in order to connect Empire and Riverbank to the freeway, have to construct these two grade separations. Plan A and C will have a serious impact on the accessibility of five schools.

He cited the experience of the City of North Sacramento in the problem of property valuation abutting on the freeway. In 1947 when the freeway was started an acre along the freeway could be purchased for \$600 but it had increased to \$10,000 per acre at the present time due to industrial development which occurred along the freeway.

Mayor Marks declared the hearing open for questions from the audience.

County Supervisor, Clint Wilson, asked---"What is going to keep the traffic, if Plan B is used, from going down the present Ninth Street to avoid crossing the railroad?"

Mr. Faustman pointed out that the freeway would be the easiest route to travel.

Robert Bomberger asked why the new freeway near Tulare by-passed the city.

Mr. Faustman pointed out that the origin and destination studies proved that it was better to route traffic around than through, when a town was small. In other words, he stated, there is a direct relationship in the size of the town to the amount of through traffic in the establishment of a freeway through or around a city.

Mr. McCumber asked if the state had considered establishing the freeway east of the city, through the airport district with a bridge across Tuolumne River at Richland Avenue. He stated that the community had been trying to get a bridge across the river at this location for approximately 6 or 7 years. It was pointed out that this was a county matter not a state matter.

Mr. Tinney stated that the state had considered both Richland and Moffit Avenues, but since most of the traffic was headed for the business area, this would not relieve the situation or provide greater service for the community.

Mr. C. D. Ludden, Mayor of Ceres, asked---"Just how much say do the people of a community actually have in where the highway will go? Are the wishes of the people of the community considered at all or does the state have a plan already formulated and follow that plan?" He cited the case of the City of Atwater where an election had been held on the location of its freeway and a majority had voted for a route which the state did not consider.

Jack Crouse, reporter from the Modesto Bee, stated that the majority vote had been very close.

Mr. Ludden asked if the policy of the state had changed in building overpasses. He was referring to the statement of Mr. Faustman's regarding the possibility of the state paying for the grade separations on H and I Streets.

Mr. Faustman quoted a statement which Mr. J. W. Vickery, Assistant Highway Engineer for Planning, had made to him which was that sooner or later the state would have the responsibility of connecting routes 132 and 108 to a freeway and they would probably be forced to provide grade separations over the railroad. H and I Streets, Mr. Faustman pointed out, would be the logical streets for this connection. He pointed out that it was interesting food for thought that after 1955, the additional one-half cent gas tax would expire. He expressed the hope that it would remain to enable the state to assist in building many needed street improvements.

Mr. Ludden asked why only one interchange was planned in Modesto for Plan A, and 3 to 4 on Plan B.

Mr. Faustman stated that he could not answer the question but that the location and number of interchanges would be subject to final agreement.

County Supervisor, Milo Bradshaw, asked if the state had taken into consideration the plans of the city-county for a master street system which would relieve traffic flows through the city.

It was pointed out that this would be discussed at the public hearing to be held next Tuesday when the State Highway representatives would be present.

V. Turpen stated that on a recent trip to San Francisco he had noted the wonderful job of by-passing Oakland which had not fouled up that city. He asked Mayor Marks whether the city, at the present time, had a plan worked out regarding city traffic that could be applied if and when the city had one of the plans adopted.

Mayor Marks stated that the City of Modesto has its own master street plan and whatever route is adopted it will necessarily make certain changes in the city's traffic pattern.

Mr. Faustman pointed out that the city would have a ten year period to integrate its master plan to the state route.

The City Manager pointed out that a joint city county committee was presently working on a Modesto area arterial plan which was not yet complete.

Mr. Faustman stated that when a city has a well developed major street plan the state would fit its plan to suit the city's but that this plan should be forwarded to the state for consideration.

Mr. G. L. Berg asked when the census had been taken by the state on the traffic and was advised by Mr. Tinney that it had been taken during the month of October. Mr. Berg suggested that the proper time should have been during the fruit season, months from July through September.

Mr. Frank Andrews asked whether any plan for the building of an elevated highway over Eighth or Ninth Streets has been explored by the state engineers.

Mr. Faustman pointed out that the state selected the most economical route and that overhead construction was extremely costly. It was pointed out that this could be checked next week when the State's representatives would be present.

Mr. Berg asked if the city had considered that if Plan B was adopted it would be necessary to consider the establishment of additional fire stations on the west side.

Mayor Marks stated that the city had not made any plans. That it was only interested in getting all the facts before any decision was made.

Mayor Marks pointed out that Mr. Ott would make a report on the social impact on the town of the various plans at a public meeting to be held at the City Hall at 7:30 P. M., June 9, 1954. He reminded the audience to attend the public hearing to be held Tuesday, June 1, at the Maddux Youth Center. He assured the audience that the Council would proceed with due diligence to resolve the problems and make an early decision on the best plan to be approved.

Mr. Burg asked that the statistics be obtained from the state regarding the accident records on the Stockton highway as compared to the Sacramento freeway.

Mayor Marks urged that if there were any questions which the audience wished information on to contact the City Manager and he pledged the Council's cooperation to get all the facts on this matter.

#### ADJOURNMENT

It was moved by Councilman M. Adams, seconded by Councilman Mellis and unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 10:00 P. M.

  
ATTEST: REX E. GAILFUS, CITY CLERK

The Council of the City of Modesto met in special session this date at 2:30 P. M. as provided by section 2 of Ordinance No. 1084-N. S. in the Council Chambers, 717 Tenth Street.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

A few moments of silent prayer were observed.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Council members having received copies of the minutes of the meetings of May 12 and 26th and the same being available for public inspection, and there being no objections, the minutes were approved.

ALLOW CLAIM OF MRS. H. C. KECK-TOWING CHARGE

The City Manager reported that a claim of Mrs. H. C. Keck for \$6.00 tow charges for pulling her car from a hole in the alley between Leon and Yosemite Avenues on March 21, 1954, caused by a broken city water main, had been denied by the city's comprehensive public liability and property damage carrier, the Phoenix-London Group, because it did not involve property damage, but that payment appeared in order since the loss was caused by city facilities. Councilman Annan introduced

RESOLUTION NO. 54-167

seconded by Councilman Arata, allowing claim of Mrs. H. C. Keck for \$6.00, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

LETTER FROM REV. C. WARREN VAN CAMP - COMMEND COUNCIL ON 1954-55 REPORT

A letter from Rev. C. Warren Van Camp congratulating the Council for its "forward-looking job" in improving the city's administration, was read. He also commended the city's brochure, "Your City's Year" recently distributed.

LETTERS FROM CITY OF AUBURN ON LOCATION OF FREEWAY

Mayor Marks reported receipt of a number of letters from the City of Auburn in reply to his request for information regarding the location of a freeway in this city, which he would make available to the Council members for their study.

FINAL ADOPTION ORDINANCE NO. 1129-N. S. PENALTY PROVISION OF ORDINANCE NO. 487-N. S. AMENDMENT

Ordinance No. 1129-N. S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 487-N. S. OF THE CITY OF MODESTO (BUSINESS LICENSE ORDINANCE) AND REPEALING CERTAIN ORDINANCES, BY AMENDING SECTION 8 THEREOF BY ADDING SECTION 10 THERETO, AND REPEALING ORDINANCE NOS. 508-N.S., 532-N. S. and 540-N. S.

having been heretofore introduced and ordered printed and published at the regular meeting of May 26, 1954, Councilman R. Adams moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

COUNCIL SET DATE FOR SUBMISSION OF ANNUAL BUDGET BY CITY MANAGER

As provided by Section 1302, of the City Charter, Councilman Annan moved, seconded by Councilman M. Adams that June 9, 1954, be fixed as the date for the City Manager to submit to the Council a preliminary budget for the fiscal year 1954-55, which was unanimously carried.

WITHDRAWING McHENRY VILLAGE ADDITION FROM McHENRY DRY CREEK FIRE DISTRICT

The City Attorney presented for Council's consideration, a resolution providing for the withdrawing of the McHenry Village Addition from the McHenry-Dry Creek Fire protection district. Councilman Arata introduced

RESOLUTION NO. 54-168

seconded by Councilman R. Adams, declaring the McHenry Village Addition recently annexed to the City of Modesto, withdrawn from the boundaries of the McHenry-Dry Creek Fire protection district, and authorizing the City Clerk to file a certified copy of this resolution with the State Board of Equalization and the Assessor of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

RESOLUTION ESTABLISH CROSSWALK ON D STREET BETWEEN 13th & 14th STREETS

The City Manager stated that the Tri-Valley Packing Association, 1306 D Street and the Cannery Worker's Union had requested the installation of a crosswalk on D Street, between 13th and 14th Streets. The Traffic committee, he stated, has investigated and concurred in the request. Approval has been obtained from J. G. Meyer, District Engineer, Division of Highways, the City Manager stated, since this is a State route.

Councilman Annan asked if the granting of this request would establish a precedent for crosswalks in the business area. Police Chief Neel stated that he had checked with Mr. Beck of the Association, who had advised him that a serious problem existed due to the practice of cannery employees crossing D Street to get to the restaurant across the street and to their parked cars. The State has taken a count of the pedestrian traffic and found that it is justified. He pointed out the difficulty due to the pattern of streets, for pedestrians to cross at 14th Street intersection.

It was agreed by the Council that the establishment of the crosswalk on a seasonable basis would not be practical. The City Manager pointed out that D Street would be painted warning motorists ahead of time of the crosswalk.

Councilman M. Adams introduced

RESOLUTION NO. 54-169

seconded by Councilman Mellis, establishing a cross walk on D Street, with the east boundary located 128' west on D Street from the West property line of 14th Street, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROPRIATION TRANSFER FOR LIBRARY CAPITAL IMPROVEMENTS TO BUILDING

Upon the recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-170

seconded by Councilman R. Adams, approving appropriation transfer of \$500 from the Library Reserve to Library, Capital Improvements fund to provide for emergency exit from the Assembly Room in the basement of the Library, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

AUTHORIZE APPROPRIATION OF DONATION OF P. E. O. SISTERHOOD FOR FURNITURE FOR THE L. J. MADDUX YOUTH CENTER

Upon the recommendation of the City Manager Councilman R. Adams introduced

RESOLUTION NO. 54-171

seconded by Councilman Mellis, ordering that the donation of \$15.00 from the P. E. O. Sisterhood for furniture for the L. J. Maddux Youth Center, accepted by the Council on April 21, 1954, be deposited in the Youth Center Furnishing Fund and appropriating said donation for expenditure for furniture for the center, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

DISCUSSION ON GIFT OF LAND FROM HORACE & DOROTHY DRYDEN TO THE CITY TO BE USED IN CONSTRUCTING 18 HOLE GCLF COURSE

Attorney William Dick appeared before the Council on behalf of Horace and Dorothy Dryden and read a letter, which was filed with the City Clerk, setting forth certain stipulations and suggestions relating to the gift of 50 acres of land to the City by the Drydens to be used in the constructing of an 18 hole municipal golf course.

The stipulations and suggestions set forth in the letter were as follows:

1. A suggestion that the city acquire an adjoining approximate 60 acres now individually owned so that a full 18 hole golf course can be secured

2. That some method of extending the transfer to the city over a period approximating the time needed to complete the construction of the course be worked out
3. That a suitable fence should be erected around the property with adequate entrances, with particular regard paid to the fence between the property dedicated and the property retained so that no harm or danger accrues to their poultry breeding activities
4. That consideration be given to minimizing use of the premises at late hours and use of intoxicating liquors in or near the dedicated premises
5. That when and if the Poultry Breeding farm property is annexed to the city that some assurance that its operations will never be hampered by any action of the city in relation to rezoning so long as the present operations are maintained substantially as at present
6. All mineral, oil and subsurface rights in the property be maintained. That should the city ever abandon or fail to maintain the dedicated property for the use as an 18 hole golf course that the property revert to the Drydens or their heirs. That should the city attempt to abate their operations or a rezoning of their remaining property that it revert to them
7. That all preliminary work and seeding of fairways and greens are to be completed in two years.

City Attorney Grimes pointed out that it was not legally possible for the Council to commit itself on the zoning in the dedication of the property. That the matter of zoning was entirely separate and apart, and should not be made a part of the dedication of the property to the city.

Mayor Marks pointed out that the reason this matter had been placed on the agenda at this time was because the cost of hiring an architect to advise the city should be a part of the annual budget soon to be considered.

Councilman Arata asked whether a check had been made if a portion of the sewer farm could be used in the course. The City Manager stated that probably a portion, possibly could be used.

Mayor Marks suggested that no definite arrangements be made for the purchase of additional land before the architect is hired.

Councilman Annan suggested that before an architect was hired that the city determine whether the owner of the adjacent property was willing to sell.

A suggestion was offered that permission be requested from the adjacent property owner to get onto his land to determine if the cheapest portion of his property could be used in the development of the course.

Mayor Marks pointed out in the method of hiring a golf course architect no fee was necessary for his services unless the complete course was developed.

The City Manager outlined suggested steps to be taken if the Dryden land is transferred to the city and the course developed. These had been worked out jointly with Park Superintendent Lowrey and Mr. Johnson representing the Dryden Poultry Breeding Farm, as follows:

1. The City to accept immediate responsibility for the care and maintenance and development of the land to be furnished by the Drydens

2. The City to provide immediately a complete topographic survey of the land
3. The City to obtain immediately the necessary technical assistance for the development of a complete plan for a first-class 18 hole golf course
4. The City to take immediate steps to obtain the additional land required
5. If the plan can be developed on a basis which makes it feasible, the City to proceed immediately with the development of the first 9 hole section of the 18 hole course on the land donated by Dryden. The development of this section could proceed while the additional land is being acquired.
6. The City to proceed as promptly and expeditiously as possible with the development of the first 9 holes within two years and the completion of the entire course within four years. The City would commit itself to meet these established time limits, except for extenuating circumstances such as flood, storm, etc., and would proceed with due diligence to accomplish them more promptly if feasible.

These schedules are proposed for consideration on the basis that the development of a golf course must be carefully planned, and that a number of the steps such as preparation of the land and planting and establishment of lawns and greens, cannot be rushed, and that the following steps must be carried out in logical order:

1. The acquisition of the necessary land
2. The complete topographic survey
3. The preparation of complete plans, including the layout of the course; details, plans, and specifications for sprinkling system and all other related facilities; preparation of the land, including any necessary grading and leveling, construction of greens, tees, traps, bunkers, etc.
4. Proper preparation of the soil prior to planting
5. Installation of the irrigation system and the provision of a proper water supply
6. Preparation and seeding of fairways, greens, tees, etc.
7. Landscaping, much of which can be completed, if necessary, after the course is in use

If all these steps can be taken as promptly as possible, some seeding on the first 9 hole section might be done in the early spring of 1955, but probably a substantial portion of it would have to be accomplished in the fall of 1955. The City would make every effort to accomplish these steps over a shorter period, but could not be sure of being able to do so.

Councilman Mellis moved, seconded by Councilman R. Adams, that the City Manager be authorized to contact the property owner of the property adjoining the Dryden property to determine the basis upon which he would be willing to sell the required portion of his property to the City, particularly that which is least valuable to him, to secure right of ingress and egress to the property, and to contact various golf course architects with the idea in mind to find the right man to hire for this job, which was unanimously carried.

It was agreed by the Council that a conference between the City Attorney and Mr. Dryden's Attorney should be held to work out the arrangements for the dedication of the property which would be cleared by the Council later.

ORDINANCE AMENDING INDUSTRIAL SEWAGE RATE ORDINANCE NO. 1092-N. S.

The City Manager stated that when the ordinance to be considered by the Council at this time, establishing the new interim industrial users rate schedules, was being prepared, an endeavor had been made to provide

alternate methods for payment which would be equitable and reasonably easy to administer from the standpoint of both industry and the City. The ordinance provides, that for the current season industry may elect to pay on either the tonnage or volume basis, that ordinance would be effective June 1, 1954, and that the interim industrial users rate schedule (sub-section (i) of section 6, will terminate March 1, 1955. The basic charges are to be made on volume plus strength basis.

The ordinance takes into account that some industries are seasonal. He outlined the provision of section 8 which provides that a seasonal industrial user may elect to pay  $66 \frac{2}{3}$  per cent of the charges during the season and the remaining portion in six equal monthly installments during the six months following October 31 of the same year. Cecil Jones, representing the Stanislaus Food Products Company, expressed approval of this deferred payment method provision.

The City Manager stated that there was general agreement on most of the provisions of the ordinance as far as industry was concerned. However, he stated, one point where there is not agreement, is the basis upon which the charges are to be levied. The canners in general contend that 1) all their books are kept on per tonnage basis and 2) it would be difficult in some cases to measure the flow of water used or sewage discharged, upon which the charges would be determined. The ordinance provides that during the current season that they be permitted to take their choice, tonnage or volume basis but by March 1, 1955, measuring devices must be installed.

Mr. Charles Mitchell, representing Flotil Cannery, pointed out that the original rate of 15¢ per ton had been increased last year to 22.5¢ and that under the proposed ordinance now being considered, the rate had been increased to 24.2¢ per ton for the canners only. He objected to the increase of approximately 60% for canners only. He also objected to the provisions which required that canners install meters, since this would call for a large capital investment which canners could not afford, and because he had been unable to find any suitable meter on the market.

Mr. Martin Mitchell, representing the Milk Producer's Association, pointed out that metering the flow of water used or sewage discharged would not present a serious problem. He outlined the plans of the Association for metering its plant.

The City Manager pointed out that industrial rates generally were increased in 1953 with the consent of the industries. He stated further that with the rate established in the ordinance, the clear water users will reduce their volume which will in turn tend to reduce the size of the plant needed by the city. This will also reduce the income from industrial sewage charges, he pointed out, but "for every dollar we lose, we gain two in operating cost and bond retirement."

A general discussion was held on 1) whether the City should pay for the meter devices as suggested by Mr. Mitchell, since the P. G. & E. and M. I. D. furnish the meters 2) whether the 24.2¢ rate was too high and 3) whether the meter requirements after March 31, 1955, should be eliminated entirely.

Since this was the time for the regular Council meeting to convene, Councilman Mellis moved, seconded by Councilman Annan, which was unanimously carried, that the balance of the items on the agenda be carried over for consideration at the regular Council meeting; there being no objections, the meeting was adjourned at 4:00 P. M.

Regular Council Meeting

The Council of the City of Modesto met in regular session this date at 4:00 P. M. as provided by Section 1 of Ordinance No. 1084-N. S.

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CONTINUATION OF DISCUSSION OF INDUSTRIAL RATE SEWER ORDINANCE

The City Manager pointed out that the City is a business too, and that the capital investment by industry for metering would be very small in proportion to the costs to the City in plant and operating expenses for extra volume.

Mr. Jones stated that the tonnage basis for sewer charges would be much simpler for the canneries since all their records are kept on this basis--the drivers are paid by tonnage, the growers paid on tonnage basis. He objected to the capital investment which would be necessary for the canners if they were required to install the meters.

It was agreed that a further study be made during the this year's canning season on the provision in the ordinance requiring installation of meters by March 31, 1955.

Councilman Annan moved the introduction and passage to print of  
ORDINANCE NO. 1130-N. S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1092-N. S. OF THE CITY OF MODESTO ENTITLED "AN ORDINANCE REGULATING THE DISCHARGE OF SANITARY SEWAGE AND INDUSTRIAL WASTES INTO THE INDUSTRIAL WASTE SYSTEM AND/OR SANITARY SEWAGE SYSTEM OF THE CITY OF MODESTO: PRESCRIBING RULES, REGULATIONS, AND SCHEDULE OF CHARGES FOR THE RECEIVING AND TREATMENT AND DISPOSAL OF SANITARY SEWAGE AND INDUSTRIAL WASTES: PROVIDING FOR MEANS OF COLLECTION OF SUCH CHARGES SAID CHARGES OR FOR CERTAIN VIOLATIONS: PROVIDING FOR EFFECTIVE DATE OF THIS ORDINANCE AND OF CHARGES HEREUNDER AND REPEALING CERTAIN ORDINANCES OR SECTIONS THEREOF", BY AMENDING SECTIONS 1, 6, 7, 8, 11, and 16 THEREOF", which motion being duly seconded by Councilman M. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill,  
and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE CLAIM FOR PAINTING OF SIGN ADVERTISING CENTENNIAL CELEBRATION

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that \$75.00 be allowed for lettering the sign advertising the Centennial Celebration in the County during the year 1954.

SET DATE FOR DISCUSSION ON LOCATION OF PROPOSED FREEWAY

Mayor Marks stated that since the state is anxious to complete the hearings on the location of the proposed freeway by June 22, he would recommend that a portion of each Council meeting be devoted to answering any questions. He recommended that the City Manager be authorized to find a meeting place to hold another public hearing on Monday at 7:30, June 7, 1954, and that the principal discussion be held on the proposed Plan "A" and Plan "C" Route. The Council concurred in these recommendations.

REQUEST OF CURTIS L. MOTE FOR HEARING FROM DECISION OF MODESTO CITY PLANNING COMMISSION

Curtis L. Mote appeared before the Council and requested a hearing on the decision of the Modesto Planning Commission to deny him permission to operate a cleaning business at 303 Camellia Way. He was asked to contact the City Attorney to make the necessary arrangements.

REPORT ON SUBMISSION OF FORWARD MODESTO COMMITTEE'S REPORT

The City Manager reported that the report of the Forward Modesto Committee's report would be submitted next week.

ACCEPT RESIGNATION OF V. E. (PETE) BARTON FROM MODESTO CITY PLANNING COMMISSION

A letter of resignation from V. E. (Pete) Barton, member of the Modesto City Planning Commission, who had moved from the city limits, was read. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that the resignation be accepted from Mr. Barton and that a letter of appreciation for his excellent service while serving on the Commission be written by Mayor Marks.

REPORT BY CITY ATTORNEY ON STATUS OF MEETING WITH TIDEWATER SOUTHERN RAILWAY COMPANY OFFICIALS

The City Attorney reported that he had been advised by the local manager of the Tidewater Southern Railway Company, Jack Kenady, that the company representatives could meet with city representatives after July 20 to discuss the status of the use of city streets by the company. Since this is past the three months period allowed the company to assemble its factual data, the City Attorney stated, he was presenting the facts to the Council for their decision. It was agreed by the Council that the City Attorney should notify the company that the Council was anxious to have a meeting as soon as possible and that Attorney Vernon Gant be advised of the action of the Council.

ADJOURNMENT

Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 4:25 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., in the Council Chambers at Fourteenth and I Streets, as provided by Ordinance No. 1084-N. S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rabbi Solomon Shore.

MAYOR MARKS COMMENDS CITY MANAGER ON COMPLETION OF THREE YEARS SERVICE WITH THE CITY

Mayor Marks called attention to the fact that City Manager Miller was beginning his fourth year of service with the City of Modesto. At the time he was appointed, Mayor Marks stated, Modesto was a city of 17,000 population and now the population is approximately 33,500. The city covers a much larger area than it did three years ago. He congratulated Mr. Miller on the tremendous job he has done. He pointed out that despite the increase in area and population the work was being handled by a minimum increase in personnel. The conditions of work had also been improved.

Mr. Miller expressed his pleasure in working with the Council, city staff and citizens and stated he and his family were "glad we decided to come to Modesto, and hoped to stay for a long time."

LETTER FROM JUDGE SHERRILL HALBERT RE: APPRECIATION FOR RESOLUTION ADOPTED BY COUNCIL URGING HIS APPOINTMENT TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

A letter from Judge Sherrill Halbert, expressing appreciation for the resolution adopted by the Council urging his appointment to the existing vacancy on the United States District Court for the Northern District of California, was read and ordered filed.

LETTER FROM UNITED LUMBER YARDS RE: NEW LOCATION OF CITY DUMP

A letter from the United Lumber Yards protesting to the additional miles and time required to haul its refuse to the new dumping area established by the County, was read. The Company suggested that an effort be made to secure a dump area closer to the city.

The City Manager reminded the Council that the Modesto Garbage Company had previously filed a request for an increase in rates which was being considered by the committee. The company has now submitted specific information on the present dumping area vs. the old one and have suggested that some intermediate site be established. This recent request will be summarized and presented at a later date to the Council, he stated.

Councilman Merrill stated that there was to be a Council Committee meeting on this problem Friday, June 11, 1954.

LETTER FROM LABOR'S LEAGUE FOR POLITICAL EDUCATION OF SHIPYARD LABORERS, LOCAL 886

A letter from Labor's League for Political Education of Shipyard Laborers, Local 886, was read. The League requested that the Council adopt a resolution urging Congress to order a study of the problem of maintaining private ship construction and repair yards in sufficient size and number to

service the ships of the merchant marine and to provide an acceptable mobilization base in times of emergency. Copies of the communication were ordered sent to each Councilman by Mayor Marks for study and further consideration.

LETTER FROM VALLEY BUILDERS' EXCHANGE, INC. RE: AMENDMENT TO BUSINESS LICENSE

A letter was read from Henry E. Anderson, Executive Secretary of the Valley Builders' Exchange, Inc. requesting that the city take action in the near future to amend the existing business license ordinance to exempt mill license payment on that portion of business done outside the city limits. The communication was ordered referred to the City Manager, Director of Finance and City Attorney.

City Attorney Grimes pointed out that it would not be legally possible to amend the ordinance to exempt contractors and not do it for other types of business.

The City Manager stated that a study and report would be made as to how it would apply to other business operations.

LETTER FROM STANISLAUS COUNTY CHAMBER OF COMMERCE RE: MILKING CONTEST FOR MAYORS

Mayor Marks read a letter from the Stanislaus County Chamber of Commerce advising that Mayor Christoffersen of Turlock had challenged all the Mayors of Stanislaus County to a milking contest to be held June 12, 1954, in conjunction with the nation wide "Dairy Month" celebration. It was agreed that the City of Modesto would be represented by Mayor Pro Tempore Merrill.

AWARD BID ON PAINTING OF LIBRARY TO ANTHONY ZAMBELLI

Tabulation of the four bids received for painting the McHenry Public Library, which had been opened at 2:00 P. M., June 7, were distributed to the Council members for their study. The Director of Public Works recommended that the low bid of \$6,485.00, plus \$12.00 per hour and the material for sandblasting, submitted by Anthony Zambelli be accepted. He pointed out that a minor irregularity actually existed in the proposal of Mr. Zambelli. In that sandblasting is quoted at \$12.00 per hour, plus materials, which would include equipment and labor but not the sand used for this purpose. However, he contended that the sand used is a very minor item in respect to the entire project.

The City Manager pointed out that it would be necessary to transfer \$3,000 from the Library Reserve Fund since the amount budgeted for this improvement was \$4,000.

Librarian Carl Hamilton advised that the bid had been cleared with the Library Board.

Councilman Annan introduced

RESOLUTION NO. 54-172

seconded by Councilman Arata, accepting the bid of Anthony Zambelli of \$6,485.00, plus \$12.00 per hour and the material for sandblasting, for the painting of the McHenry Public Library and authorizing the execution of contract for the completion of the work by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

Councilman Merrill introduced

RESOLUTION NO. 54-173

seconded by Councilman M. Adams, authorizing appropriation transfer of \$2,000 from the Library Unappropriated Reserve Fund and \$1,000.00 from the Library Capital Improvement to Building fund, to the Library-Maintenance and Repair, Building and Grounds, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

LETTER FROM GROVER BLACKBURN COMMENDING SERGEANT NORMAN STURM

A letter was read from Grover Blackburn commending Sergeant Norman Sturm of the City Police Department. The City Clerk was directed to send a copy of the letter to Sergeant Sturm.

LETTER FROM PACIFIC COAST BUILDING OFFICIALS CONFERENCE RE: ANNUAL MEETING IN DENVER OCTOBER 5-8, 1954

A letter from the Pacific Coast Building Officials Conference was read, requesting the attendance of the city's building official to its conference being held in Denver, Colorado, October 5-8, 1954. The letter was referred to the City Manager.

LETTER FROM CULVER FURNITURE STORE REGARDING "CLOSING OUT SALES"

A letter from Culver Furniture Store, together with a copy of Palo Alto's Ordinance regulating "closing out sales" was referred to the City Manager.

CONSIDER BID SUBMITTED ON CONSTRUCTION OF COMFORT STATION AT MODESTO JUNIOR COLLEGE SOFTBALL FIELD

The City Manager reported that one bid had been received for the construction of the comfort station at the Modesto Junior College Softball Field, which was submitted by Edward A. Tomlinson for \$3,889.00. He asked that award of bid be delayed until the matter of an agreement with the schools could be cleared.

HEARING ON REQUEST OF AGNES J. CHANDLER FOR TAXICAB PERMIT

This being the time set for a public hearing on the application of Agnes J. Chandler for a permit to operate a taxicab business, Mayor Marks declared the hearing open at 8:00 P. M.

Attorney Frank Damrell appeared on behalf of Mrs. Chandler, who he stated, proposed to operate two cabs and asked that a stand be approved at Tenth and J Streets in front of Grayson's store. No objection to the stand at this location would be made by the store, he stated. Mr. Damrell stated that up to the present time, he had been unable to determine the method to use in obtaining factual data to prove that there was a demand for additional taxicab service in the city, as required by Ordinance No. 753-N. S. However, he continued, it had been his observation that at certain times during the business day, especially during inclement weather, there was a definite need for additional service. He pointed out the rapid growth of the community in the last year and the meager bus transportation facilities at the disposal of the general public. The question should be resolved in favor of the public he stated, and the only one who could be hurt in this

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case would be his client, Mrs. Chandler. The most important thing to be considered he repeated is to give the public adequate taxi service. He pointed out that his client was of good moral character and financially sound.

Police Chief Neel stated that at the present time 19 taxicab permits were in existence and only 13 were being used. "If there is a demand for additional taxi service," he stated, "why are the companies only operating 13 cabs."

Sam Secreto, operating the Yellow Cab Company, stated that there was no need for additional taxicabs in the city. Joe Sequeira, operating Joe's Taxicab Co. stated that "We have too many permits for the business in Modesto at the present time. I am only operating five of my seven taxicabs most of the time."

Hershel Lawrence, operating Smitty's Cab Company stated that he was only operating four of his seven taxicabs. He contended that there was no need for additional cabs in the city.

Councilman Mellis stated that he believed it was the duty of the Council to take into account the effect on the companies who were already licensed so that they could maintain their equipment in a good mechanical condition. Since the city regulates the rates, he stated, the schedule which the city has been building up should not be broken down by allowing too many permits.

Mr. Damrell stated that many of these cabs not in operation by the licensed companies were actually in for repairs and the public was not receiving adequate service with the cabs presently licensed. He called attention to practice of the various companies of holding one customer until there were additional customers going in the same direction, which he contended was not giving the public adequate service. He stated that it had been brought out at the hearing before the Forward Modesto Committee that patients who had gone to doctors offices in the Beaty Building were being forced to wait for taxicabs for a long period of time. He asked, if there was still a doubt in the Council's mind about granting this application, whether a petition signed by a number of citizens of the city would have any consideration by the Council.

The City Manager pointed out the provisions in the ordinance for granting permits, but suggested if the applicant wished to file such a petition that it would be considered. Councilman Arata asked if someone should be assigned to check the need for additional taxicabs and the City Manager pointed out that it was the applicant's responsibility to furnish factual evidence---that the burden of proof was on the applicant. He pointed out to the companies now operating that it was not necessary for them to have a permit for cars which were under repair and that they could place another cab in operation during repairs after obtaining approval from the Chief of Police.

Mayor Marks recommended that during the next week Mr. Damrell and his client, with the assistance of the Police Chief, seek to establish some manner in which evidence required by Ordinance No. 753-N. S., could be assembled.

It was pointed out in the discussion, that due to lack of business at the corners of Tenth and J Streets, the Yellow Cab Company stand at this corner had recently been moved to a new location. Mr. Secreto stated that if it had now developed that there was sufficient business at this location that he would request reassignment to his former location.

Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried that the hearing be continued to 4:30 P. M., June 16, in the Council Chambers.

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AUTHORIZE CALLING FOR BIDS FOR OFFICIAL ADVERTISING FOR YEAR ENDING JUNE 30, 1955

A general discussion was held by the Council on the provisions of the charter and the City Attorney's opinion No. 53-6, dated June 26, 1953, relating to the provisions for the calling for bids for the official advertising for the city for the fiscal year.

The City Attorney pointed out that other factors besides the price could enter into the consideration of awarding the bid, such as quality of service, etc.

Councilman Merrill introduced

RESOLUTION NO. 54-174

seconded by Councilman R. Adams, authorizing the calling for bids for the official advertising for the city for the year ending June 30, 1955, said bids to be opened at 2:00 P. M., June 21, 1954, in the office of the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

SET DATE HEARING ON APPEAL FROM ACTION OF PLANNING COMMISSION-CURTIS MOTE OPERATE STEAM PRESS AT 303 CAMELLIA WAY

Councilman Mellis introduced

RESOLUTION NO. 54-175

seconded by Councilman Merrill, setting the date of June 23, 1954, at 8:00 P. M. in the Council Chambers, as the time and place for the public hearing on the appeal of the action taken by the Modesto City Planning Commission denying permission to Curtis Mote to operate a press shop at 303 Camellia Way, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

FINAL ADOPTION ORDINANCE NO. 1130-N. S. AMEND ORDINANCE 1092-N. S. SEWER SERVICE CHARGES

Ordinance No. 1130-N. S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 1092-N. S. (REGULATING SEWER SERVICE) BY AMENDING SECTIONS 1, 6, 7, 8, 11 and 16 THEREOF" having been heretofore introduced and ordered printed and published at the regular meeting of June 2, 1954, Councilman Annan moved, seconded by Councilman Arata, that the ordinance be finally adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

Councilman R. Adams pointed out that in the recent discussions on this ordinance, the Council had agreed to make a further study of the provision

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requiring industrial users to install, at their own expense, measuring devices after March 31, 1955, with the possibility that there might be participation by the city in the cost involved. He pointed out the inconsistency of participation in the cost for the industrial users and not the commercial users. At the present time, he stated, the sewer committee and the City Manager are making a study of certain hardship cases involving commercial users where the city will work out the method and formula of measuring water. The Council indicated its approval of this study.

APPROVE AGREEMENT WITH ELKS LODGE FOR REALIGNMENT OF ALLEY AND SANITARY SEWER LINE IN BLOCK 728

The City Manager reported that adjoining property owners had been contacted and had offered no objections to the proposed realigning of the alley and sewer line in Block 728 for the Elks Lodge addition to its building and that the approval of the agreement with the lodge was now in order. Councilman M. Adams introduced

RESOLUTION NO. 54-176

seconded by Councilman Merrill, approving agreement between the City of Modesto and B.P.O.E. Modesto Lodge No. 1282 for the realignment of alley and sanitary sewer line in Block 728 and authorizing the execution by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ORDINANCE CREATING A PARKS AND RECREATION DEPARTMENT

The City Attorney presented an ordinance for the Council's consideration consolidating operations both as to facilities and program in a new Parks and Recreation Department. The City Manager reminded the Council that this was in compliance with the recommendation resulting from a survey of the Public Works Department.

Councilman Annan moved the introduction and passage to print of

ORDINANCE NO. 1131-N. S.

entitled: "AN ORDINANCE CREATING A PARKS AND RECREATION DEPARTMENT, PROVIDING FOR ITS ORGANIZATION AND DIRECTING, & ESTABLISHING THE OFFICE OF DIRECTOR OF PARKS AND RECREATION" which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPOINTMENT OF E. GRAHAM MAY ON MODESTO CITY PLANNING COMMISSION

Councilman R. Adams recommended the appointment of E. Graham May to the Modesto City Planning Commission to fill the vacancy now existing due to the recent resignation of Mr. Barton, who had moved from the city limits. Mr. May would be willing to serve, Councilman R. Adams stated, and he would prove to be a valuable man on the Commission.

Councilman Merrill stated that it was his opinion that members of a real estate or loan agency should not be on the Commission. That a member should be unbiased in his decisions. Mayor Marks stated that these concerns should be represented on the Commission.

At this time the City Attorney read the names of the other members of the Commission. Councilman R. Adams introduced

RESOLUTION NO. 54-177

seconded by Councilman Mellis, appointing E. Graham May on the Modesto City Planning Commission to serve the unexpired term of V. E. Barton until January 1, 1957, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

LETTER FROM MODESTO RETAIL MERCHANTS' ASSOCIATION REQUESTING ALLOCATION FOR YEAR 1954-55

A letter from the Modesto Retail Merchants' Association, requesting allocation of \$3,000.00 for the year 1954-55, was read. The City Manager pointed out that this would be a matter for consideration at the time the 1954-55 city budget was considered. Councilman Mellis stated that he was not in favor of increasing the appropriation this year. The letter was referred to the City Manager.

LETTER FROM MODESTO CHAMBER OF COMMERCE REQUESTING APPROPRIATION FOR YEAR 1954-55

The request of the Chamber of Commerce for appropriation for the 1954-55 budget had been received and copies would be sent to the members for their study and consideration at a later date, the City Manager stated.

CITY MANAGER SUBMIT 1954-55 BUDGET FOR THE CITY TO COUNCIL

City Manager Miller filed copies of the preliminary budget for the year 1954-55 with the Council members for their study. He called attention to page (a) of the budget message which outlined the increases in population as 4.0%, area 26% and revenue of 8%. The early filing of the budget with the Council, he stated, should be credited to the efforts of three employees, Bob Shelton, Assistant City Manager, Fred Lawrence, Director of Finance and Lenna Abbey, Secretary in the Finance office. Copies would be available shortly at the City Clerk's office for anyone interested in reviewing and making suggestions.

ACCEPT CONSTRUCTION OF SEWERS IN BLOCKS 6196 and 6198 FROM CONTRACTOR ANDREW P. RASMUSSEN, AUTHORIZING PAYMENT OF AMOUNTS AND RECORDING OF NOTICE OF COMPLETION

A report was filed by the Director of Public Works that the work on the construction of a sewer line in blocks 6196 and 6198 had been completed by contractor Andrew P. Rasmussen in accordance with the contract which was awarded by the Council on February 24, 1954, and that he recommended acceptance and recording of Notice of Completion with the County Recorder and payment of amounts due at this time. Councilman Annan introduced

RESOLUTION NO. 54-178A

seconded by Councilman Arata, accepting the construction of a sewer line in

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blocks 6196 and 6198 from Andrew P. Rasmussen, authorizing the recording of Notice of Completion, and authorizing payment of amounts due under the contract, as recommended by the Director of Public Works, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

FORWARD MODESTO COMMITTEE FILES FINAL REPORT WITH COUNCIL

Larry Robinson, Chairman of the Forward Modesto Committee, appointed by the Council on November 18, 1953, by Resolution 10384-N. S., filed for the Council's consideration final reports on studies made by the committee on the following subjects:

Priority report.

1. Flow of Traffic
2. Street Improvement, Maintenance, and Drainage
3. Canal Safety
- 4A. Airport
- 4B. Air Pollution
5. Public or Mass Transportation
6. Area Parks
7. Neighborhood Parks
- 8A. Golf Courses
- 8B. Swimming Pools
9. City Buildings
10. Community Buildings
11. Civic Center
12. Community Water Supply
13. Finance

Mayor Marks stated that "on behalf of the City Council---on behalf of all the people of Modesto---I thank the members of the Forward Modesto Committee for a magnificent job of work. Through untiring, conscientious effort, they have produced this analytical, comprehensive report to their fellow citizens---a report which is indeed the 'blueprint of the Future' they were requested, last November to prepare. Theirs is an outstanding example of cooperative citizen action toward achievement of a finer community, and all of us are deeply grateful."

Members of the Forward Modesto Committee who were present were asked to stand. Mayor Marks introduced Larry Robinson, Dr. R. S. Shearn, and Fred Johnson.

Mr. Robinson stated that the committee appreciated the opportunity given to them by the Council to be of service to the community. "Each member working on this committee," he stated, "has a better understanding of his community and the problems facing us."

The City Manager stated that copies of the report would be placed on file in McHenry Public Library, High School Libraries, Office of the City Clerk, and the office of League of California Cities. He stated that there was state-wide interest in the report.

Mr. Robinson stated that the Committee is preparing a summary of their recommendations, which will be placed on the city's newsstands for sale at a nominal price.

Councilman Mellis introduced

RESOLUTION NO. 54-178

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seconded by Councilman R. Adams, that the City Council go on record as authorizing the sending of a letter to each member of the committee expressing appreciation for the fine work that they have done, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

#### REPORT ON MEETING ON LOCATION OF PROPOSED FREEWAY

City Manager Miller reported that the second public meeting on the location of the proposed freeway, which had been held in the Maddux Youth Center, Monday, June 7, had been attended by approximately 400 people. Representatives from the State Division of Highway Department had been present as well as Mr. Faustman and Mr. Ott, who had summarized their findings.

At this time Mr. Faustman's official report was filed with the Council, by the City Manager, who advised that Mr. Ott's report would be filed within the next few days. Mr. Ott's report, he stated, would be duplicated and distributed to the Council members before the next Council meeting, for their study.

Mayor Marks stated that the question has been raised---"why did the city hire an outside traffic engineer to prepare a report on the location of the proposed freeway?" The answer is this, he stated, "the city has one view point and the state could have another. Mr. Faustman was instructed to prepare an unbiased report strictly from the cities standpoint. Whether the Council will agree with this report is beside the point. The Council is elected to represent the 33,000 people in Modesto and they intend to do it. The state will make the final decision where the freeway is going to go. Still we want to know what it is all about, to get the facts together as they pertain to Modesto. That is the reason we hired Mr. Faustman. Mr. Faustman, who is the traffic engineer of the City of Sacramento has a state-wide reputation for being a good sound man and he was asked to work at this problem from the technical point of view. Since the city is without a Planning Director, Mr. Ott was hired to work on the planning problem, the social impact on the citizens. We have gone out to get the best people to protect the public welfare, regardless of their address. All of these things will be considered finally by the Council. That is the reason we hired the outside people. We stand on our record we did the right thing. The Council has tried to keep themselves open-minded on all routes."

The City Manager stated that copies of the Faustman report would be made available to anyone wishing a copy. The reports at present did not have the charts showing the traffic flow as they were difficult to reproduce but Mr. Faustman has been asked to consolidate them so that they could be reproduced and would be available later.

Mayor Marks pointed out that no member of the Council had, prior to this meeting, seen Mr. Faustman's report so they would not be able to discuss the report at this time. However, he stated, from now on until the time set by the state, (June 22) for the Division of Highways to recommend a route to the commission, a portion of the Council meeting will be set aside for discussion on the freeway so that the people may express their viewpoints and ask questions. "The members of the City Council wish to protect the rights of the minority, while working for the good of the majority," he stated. He asked if the audience wished to raise any questions at this time.

Attorney Francis W. Halley stated that he appeared at this meeting on behalf of the Committee for Fair Play. He referred to the remark made by

the Mayor that the Council represented the 30,000 people of the city and that it was the desire of the Council to take such action as the citizens deemed appropriate. He stated that at the recent public meeting, Mr. Meyers of the Division of Highways, had stated that "as far as his department was concerned, that they desired to put the freeway where the people of Modesto wanted it." The question is this, Mr. Halley continued, "the manner in which the citizens of the city can express their wishes. One way is to secure petitions from the people and another, they can express their opinions at these meetings." He pointed out the difficulty to secure an adequate opinion from all groups. He pointed out that the location of the freeway would be one of the most important decisions to be made by the Council. He stated that the Committee for Fair Play felt that it was an extremely important problem. He stated that it had been called to his attention today that Plan B, as proposed would do away with the Maze Wren Park. This is a serious problem, he stated, and one that the Council no doubt will consider when making its decision. "It might be interesting to know that when the property was deeded to the city that there was a reversion clause which provided that when and if the area was no longer used for park purposes that it would revert to the grantor or his heirs. In the event the state condemns the property, he stated, the funds would be dispersed to the heirs. The serious problem, however, he stated, is that the city would lose one of its parks. The placing of this freeway is of such importance that its location is one which should be determined by the people. The Council, he continued, has not gone on record opposing or advocating any route and is not in a position to do so at this meeting. The Division of Highways makes its decision on June 22 and the Committee for Fair Play is asking that you call an election to get the vote of the citizens of this community as to their wishes in this regard. No one can foretell the result of this election. It is possible they might select A or C or B." I presume the Council would conform with the wishes of this community, he stated. He pointed out the difficulty in calling an election before June 22, at which time the Division of Highway is to make its recommendation to the State Highway Commission and requested that the Council communicate with the state and request deferment of the decision until the results of an election could be placed before them. He stated that the committee for fair play would agree to finance the election and that funds would be available to the city so that the election could be conducted without cost to the city. "The only way it can be decided properly," he stated, "is by vote of the people. Both the State and the City are going to want what the citizens of this community want. The request of this committee is that the Council consider the matter of calling this election."

Mayor Marks stated that he wished to clarify a statement made by Mr. Meyers at one of the prior meetings to the effect that the state department would not be controlled by the results of an election by the people in the location of the proposed freeway. I asked him again what consideration they would give election results and he stated that it was the policy of the department to consider the vote of the people in making a choice but that the final decision was made on the location which would serve the community and state highway motorist the best and most economically. Mayor Marks stated, "The Council will gladly take the committee's suggestion under consideration. I do want to get it clear as far as the people are concerned, the Council is happy to listen to them."

Mr. Halley stated that "I cannot believe the highway department is going to force a highway through the center of town. We feel that this election is very timely and should be held. The Highway Department should be asked to postpone their decision until the people have had an opportunity to express themselves."

Mayor Marks asked Mr. Halley if when it came time to run the Yosemite-McHenry Avenue Freeway, whether an election should be held to get the viewpoint of the citizens, to which Mr. Halley replied "when that time arrives it will be considered."

Councilman Merrill pointed out that the State Department did listen to the citizens of Manteca when the highway location was decided on.

Mr. Halley stated that he wished to make it clear that the suggestion which the committee was making was an example in democracy in action and that the purpose of the election was that the city should go along with the majority.

The City Manager pointed out that the Commission would not make a decision on the route on June 22, but the Division of Highways might make its recommendation to the Commission and that a date would be set at some future time for a public hearing on the routes before the Commission decides.

Mr. Halley pointed out the importance of presenting them the results of an election, no matter which way it went.

Councilman Arata pointed out that there would be ample time between the time the Division makes its recommendation to the Commission for the Council to decide to do that.

Mayor Marks pointed out that the Council would need time to study Faustman's and Ott's reports.

Mr. Halley asked when the committee might have the Council's decision on its request and asked if it would be by the next Council meeting.

Mayor Marks stated that it could be placed on the agenda for that meeting.

Councilman Mellis pointed out that other cities, like Fresno and San Francisco, did not hold elections to decide their location for free-ways. He questioned if the vote of the people could help in the decision.

Mr. Halley pointed out that what other cities have done did not determine what Modesto should do. That Modesto was a progressive city. He pointed out that the Council would not have to spend the city's money since the committee had agreed to underwrite this election.

Councilman M. Adams questioned whether it would be legally possible to hold the election in this manner (the committee assuming the cost).

Mayor Marks pointed out that this would have to be determined by the Council. "That is what we were elected for to wring out these things, based upon the facts. He pointed out that the election results might rebound on the committee. Maybe Route B would be selected by the people.

Mr. Halley stated that the committee was willing to abide by the decision of the voters since they thought it was the best way to resolve the question and would be considerable assistance to the division of highway who will ultimately determine the route.

A spectator from the audience raised the question "who is going to determine who has the right to vote?"

Mayor Marks stated that each citizen of Modesto fringe area would be affected but that only Modesto registered voters could vote in a city election. The City of Ceres would have no choice, who would be vitally affected if Route B was chosen and would not have any change to express themselves at the polls and unless the county would hold an election only the citizens of Modesto could vote.

Jerry Clark pointed out that the result of such an election would only be the viewpoint of the Modesto citizens and not the majority of the people who use the highway. "In as much as you have hired experts to study this situation---they have the knowledge and know what is best for the state

as a whole---how can a vote help this situation at all?"

Mayor Marks stated that Mr. Clark had raised the crux of the point. The state engineers had been asked this question and had stated that this is a state highway system and that is the reason the state has the decision.

Mrs. Dave Arata stated that if the engineers have the right to override citizens of a city it is just like living in Russia. I think that the people of the city always have the right to vote---that is the democratic way, to handle anything---let them vote: She objected to "a washed out" answer given her at a recent public meeting by Mr. Hubbard of the State Department regarding rights of way. She asked if the Council had taken into consideration the loss of assessed valuation if the property between Fifth and Sixth Streets was removed from the tax roll as provided in Plan B, revenue which was coming into the city not the county.

Mrs. Caulkins asked who had authority to call an election at which all the people in the school district would be eligible to vote.

Mayor Marks pointed out that the proposal of the committee was that only the people of Modesto should vote. He pointed out also that the Council only represented the 33,000 people in the city, that the people outside would have to have a separate election.

Attorney Grimes pointed out that it would be necessary for the school board to call the election if the people outside the city wished to vote.

Mayor Marks pointed out to Mr. Halley that the people outside would be affected and wished to express themselves and had suggested that the election encompass the school district so that they would have a chance to vote.

Mr. Halley stated that as far as the committee was concerned they only wished the expression of the citizens of Modesto. "These people who live outside would have the right to express themselves in any manner which they deem advisable. He stated that he only had authority to ask for a city election.

Councilman Annan asked how the ballot would be worded, vote for A or B or C---how would it be worded.

Grimes stated that it would have to conform with the Council's orders.

Mr. Halley was not certain how it should be worded and suggested that it be worded "for or against B route."

Mayor Marks objected to this as well as the audience and Mr. Halley stated that the Council should make up the ballot as they deemed proper.

Councilman Annan stated, "I want you to know, Mr. Halley, that every time one of these issues comes before the Council we have to vote and many of us lose a few friends. Some of these things are vital to a lot of people. We do lose friends and it has been stated that there are some men in business who lose business over it. I do not necessarily concur on that thinking. I think it would be wonderful if we could get out from underneath this thing---not take the responsibility of this office and hand it over to the people of the City of Modesto and let them handle it themselves. That part appeals to me very much. However, there is this point about it, you know, I would like to ask you (Mr. Halley) this question. Do you believe in the figures that the engineers has submitted to us? and Do the people of Modesto know that if Plan A

is approved instead of B that the city is going to have to raise the approximate sum of \$2,450,000?

Mr. Halley stated that those remarks should be publicized to help the people to make up their minds. Mr. Annan stated, "O.K."

Mr. Frank Arnold stated that he lived on the proposed Route B and that he felt that he did not have the right to vote for something which "I do not want and to take my neighbors house away when he does not have the same right as I do, to vote." He stated that he would want to be certain of his information before he could vote intelligently. He pointed out that at a prior meeting that Mr. Meyers had stated that if the division did not get its recommendation into the Commission by June 22, that the commission would not be able to consider the location of the freeway until its September meeting. "The west side is very unsettled and will be until it is decided. We are entitled to a decision. You have the facts before you, you can weigh these figures intelligently before the 22nd of June so that it won't have to ride until September. We have no right to vote in the city and not the rest of the people who will be affected."

Councilman Mellis stated that if the committee did not agree with the findings of experts that they owed it to the city to come out with a better plan instead of asking us for an election and try to bring confusion.

Jerry Clark stated that he did not agree with Mr. Mellis' suggestion. "Experts have studied this problem and have come up with three plans--- if there was a better one they would have considered it. Everyone has a plan, I even have one. I think something should be done as soon as possible there are so many people involved---everything is at a stand still."

Mayor Marks suggested that the committee be furnished copies of Mr. Ott's, Mr. Faustman's and the Forward Modesto Committee reports so that they could be studied and they could come before the Council and say "this is the route we want and this is the reason we want it." He asked Mr. Halley at this time whether the committee wanted Route A and Mr. Halley said "yes".

Mayor Marks asked Mr. Halley to present some valid, cogent figures proving route A is best. Mr. Halley assured Mr. Marks that the committee had no figures of this kind.

Mr. Weldon (?) stated that some of the people to be affected if Route B was selected were pensioners who rented or owned small houses on Fifth and Sixth Streets, who would be forced to go out on the fringe area to buy new homes and they could not buy a home similar to the ones they now owned for the amount of money paid them by the state.

Mrs. Larry Robinson brought out the point that this would also be true of the A and C route.

Mrs. Sprague stated that the statement "leave it to the engineers and they will make the proper decision" was not correct. The highway department has put highways in the wrong place before. How can we say they are going to do the best thing for us. Do you consider the health angle of running a highway through a city?

A question from the audience whether any figures were available of the loss to the city if the ten blocks were removed as far as license fees, sales tax and taxes was answered by the Mayor, who stated that the state contends that whenever a merchants is removed in this manner that he usually relocates somewhere else in the city and the valuation and revenue is still there.

The City Manager pointed out the difficulty in assembling this type of information due to the angle of the various routes. He stated that

a spot check on three blocks---every other block on a section of Route B was being made and that the information would be made available.

Mr. Berg pointed out that the traffic count figures used by the state in October did not take into account that 90% of the tourists and 95% of the cannery workers were gone at that time.

Councilman Annan asked Mr. Halley---if it comes to pass that we do hold an election, naturally I presume that your people are opposed to spending money to advertise the advisability of Route B as recommended by the state engineer. In order that this thing be presented fairly to the people so that they can make up their minds intelligently, who is going to spend the money advertising in the paper and over the radio, to inform them fully on the problem and answer the questions which they should have answered. I would like to know this before I make up my mind about the election. If it is not going to be presented to the public in detail and fairly, I would be opposed to an election. I wil' drop in on the committee about this. It is vital to me.

Mr. Halley contended that there were plenty of interested people who would put up the necessary advertising and publicity.

One member of the audience stated that the Council represented the people and should consider what the people wished and he thought that there was no better way to get an expression of the people than by an election.

Another member of the audience asked "Can we also vote on A." Would we have no right to vote on that even if it runs out in the county.

Mayor Marks stated "this does not only affect 30,000, it affects thousands of people outside. He pointed out again what it would do to the town of Ceres if Route B was voted by the City of Modesto and they were not permitted to vote. He stated that the people, if an election was called should be able to vote on all of the proposed routes.

Mrs. Caulkins suggested that the other people affected by the route who reside outside the city be given an opportunity to vote.

Mayor Marks pointed out that it had been his personal view at the time the question of the building of the rehabilitation center was being considered that an election should not have been held but that the board members had been elected to represent the county and it was really their duty to decide the location of the center. He stated, "if you had a vote of the people I wonder if you would have a democratic answer as to location.

Mayor Marks stated that the report of Mr. Faustman had not been studied by the Council and that he considered it the duty of the Council to read the report for which "we hired the engineers and to sit down together in open public session and determine whether or not we are going to have an election before we do anything.

Councilman Annan stated that "due to the fact that the state does employ and need a great number of engineers, I am of the opinion that the best engineering plans that are available for these purposes have been considered and I can't imagine what the highway system of the State of California would develop into if everytime there was a difference of opinion the people of various localities were given the opportunity and placed in a position to decide where these routes should go. There are two things which stick in my mind, 1) The number of schools located on route A, 2) there would be twice as much traffic on Ninth Street in 20 years if route A was chosen. Ever since I have been on this Council I have heard criticism of the previous Council. I do not want this Council to be criticized for any action they take on this. People get peeved pretty easy.

Someone from the audience stated that people would not be peeved at this Council and asked if they were going against an expression from the people.

Mrs. Arata asked Councilman Annan why he did not resign.

A discussion of people's attitudes and rights followed.

Mr. Halley stated that the same group of men designed Route A, Route B and Route C, under the direction of Mr. Meyers. What reason would they develop Plan A if they did not want us to consider it.

Mayor Marks stated that the reason they had presented all three plans to this city was to get the local reaction to them. The public hearing which will take place before the State Highway Commission, after the state engineers have recommended the route and "it is still my firm opinion that they are going to recommend the one that serves the community and state the best, all three routes will be considered." The election, he stated, is an entirely different thing. That is something for the Council to consider and it should be decided tonight.

Someone from the audience brought out the point that the Public Works Department had not mentioned the fact about the Maze Wren Park. The City Manager stated that this fact had been mentioned in previous discussion.

Fred Johnson stated "on the matter of the figures which the State Division of Highways have used, I want to point out that they have been in the business of collecting data for many years. They have all of the facts and figures from the studies which have been made over all the United States and other countries at their disposal. He cited the case of Oceanside where the state's analysis of the traffic flow had only been 6% off.

One of the members of the audience asked why all the routes were planned on the west side of the city.

Mayor Marks pointed out that it was due to the cost of the route.

Councilman Mellis pointed out that the reason Mr. Faustman had been hired by the City was so that the city would have representation at the public hearing.

Councilman Arata moved, seconded by Councilman Merrill and it was unanimously carried, that the matter of whether the city should hold an election should be placed on the agenda for the meeting of June 16, and that Mr. Faustman and Mr. Ott would be present to answer questions.

Mr. Halley agreed that it would not be necessary to have representation from the State Highway Department at the June 16th meeting.

#### ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman Annan, that the Council meeting now in session adjourn, which was 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 Ordinance No. 1084-N. S., as amended, in the Council Chambers at Fourteenth and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

A few moments of silent prayer were observed by all.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meeting of May 26th, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### GRANT PERMIT TO CALIFORNIA FRYER FESTIVAL TO ADVERTISE FESTIVAL WITH SOUND TRUCK

C. L. Seagraves, representing the California Fryer Festival, filed a request for permission to operate a sound truck in the city, Saturday, June 19th, to advertise a festival to be held in Legion Park, June 19. Mr. Seagraves stated that it is planned to make this festival an annual affair.

City Attorney Grimes stated that he had advised Mr. Seagraves that Ordinance No. 392-N. S. precluded the use of a loud speaker on the streets, but that it could be used in the park providing it was kept at a reasonable volume.

It was agreed by the Council that since the chicken industry was a new and very valuable industry in the county, everything possible should be done to nurture it, and the granting of permission to advertise the festival on the city streets with a loud speaker would not set a precedent.

Councilman Mellis moved, seconded by Councilman Annan, that permission be granted to the California Fryer Festival Association to use the city streets to advertise its festival, June 19, from 9:00 A. M. to 3:00 P. M., which motion was unanimously carried.

#### COMMUNICATION FROM PLANNING COMMISSION URGING EMPLOYMENT OF ADDITIONAL PERSONNEL IN PLANNING DEPARTMENT

A copy of Resolution No. 140, adopted by the Modesto City Planning Commission, urging the Council to move rapidly in the filling of vacant personnel positions in the Planning Department, was read and ordered filed.

The City Manager reported on the progress being made in the selection of personnel for key positions.

#### PETITION REQUESTING THE COUNCIL TO ADOPT ORDINANCE REGULATING THE SELLING OF TICKETS AND ADVERTISING BY PHONE OF ENTERTAINMENT ACTIVITIES

A petition signed by 16 persons, requesting that the Council consider the adoption of legislation regulating the soliciting of advertising space and the selling of tickets by telephone for entertainment activities, was read.

The petition was referred by the Council to City Manager Miller to check with the signers as to the type of activities they have in mind and to report his findings later.

Ward C. Rowe, one of the signers of the petition, who was present, stated that the City of Fresno had recently adopted an ordinance of this type.

FURTHER DISCUSSION ON LOCATION OF PROPOSED FREEWAY

Mayor Marks reported that he had written to Frank B. Durkee, chairman of the State Highway Commission, and had received his reply, asking whether the results of an election would be of substantial assistance to the Commission in its determinations of routes. At this time Mayor Marks asked the representatives of the Committee for Fair Play whether they were still of the opinion that an election should be held to determine the location of the route and that if so he would read the communications.

Mr. Frad: We think the people should be given a vote in the matter.

Mayor Marks read the two letters.

The City Manager listed the following reports which had been received:

1. "Community Planning Considerations in the Selection of a Freeway Location, Modesto, California", prepared by J. Stanley Ott, Planning Consultant of Stockton, hired by the City of Modesto.
2. "Supplementary Comments Modesto Freeway Location", prepared by D. J. Faustman, Consulting Traffic Engineer of Sacramento, hired by the City of Modesto, which relates to the origin and destination of southbound traffic on U. S. 99.
3. "Tentative estimates of possible effect on proposed freeway location, Route B on income of City of Modesto", prepared by Director of Finance Lawrence.
4. Statement of City Manager regarding telephone call from Morris Feldman, Clerk of the Board of Supervisors advising that the Board had not taken official action on the matter of the freeway location.

Attorney Francis W. Halley, representing the Committee for Fair Play, asked: The Council is not interested in what the people think about this thing?

Mayor Marks replied that it was not part of the duty of the Council to call an election, and that, in his opinion, this was a legislative matter, and is not just a question of public opinion. "It gets down to whether or not the Council makes a recommendation to the State Highway Commission on any particular route. This matter should not be put before the public of Modesto on an election basis---this is my opinion. I think the Council has a definite duty to the people in Modesto to keep alive our representative form of government."

Norman West stated that he wished to offer a resolution as a substitute. He noted that the state had a fine group of engineers who were doing a good job but that they were "sucking in a good element of Modesto into their camp." He stated that he could not reconcile any statement which had been made from the standpoint of Modesto. He recognized the state's position on the figures presented on this highway situation. He did not think that all the remedies had been taken into consideration. He cited as an example the trucks, which take up 4-5 times as much space as cars. He stated that he was not convinced in his own mind that when the trucks were taken off of U. S. 99 to a new location it would help. Although the City of Ceres was not a part of Modesto, he stated, he would not go for a plan which would, in the words of the Mayor of Ceres, "disembowel the City of Ceres".

"There has been nothing in any of the arguments put forth, which route would be better for Modesto; it has all been for the State of California. Let's fight for Modesto. You (Council members) are citizens who are representatives of the people of Modesto. I would like to see you pass a resolution to be forwarded to the Commission which would state---'We in Modesto would like to keep Modesto as is--we are satisfied with Modesto. Please, gentlemen, put your highway on the edge and do not use us as a stepping stone in this program.'"

Mr. Faustman stated that according to the actual quotations from the Division of Highway---all types of trucks constituted 12% of the total traffic coming into the town, and of that 12% 40 per cent would go around and 60 per cent would go into the town. He pointed out that it had not been the policy of the highway department and would not financially be possible to provide separate truck facilities. "There is no argument," he stated. "Trucks on highways do take greater length and greater width and slower speed on grades. The trucks do take up more than a fair share, but the truckmen pay more taxes and they believe they are entitled to take up that room. Eighty per cent of freight shipment is moved by truck. The economy of this area is dependent on trucks."

Mayor Marks stated that "we are in sympathy with Mr. West to keep Modesto as it was. I have said publicly that I would like this town better if it still had 13,000 population. I appreciate Mr. West's statement; I do not like big towns either. I have a duty, we all have a duty, and we all want to carry it out and decide the best for the community. The problem facing us now is that we have three routes. Which one do you want to endorse? I honestly feel the same way Mr. West does. But this situation does not exist any more. We have 65,000 people in our community. I have a duty to the people of this town to do everything to make a good town for our citizens to live together satisfactorily and with serenity, and I will do all I can to do it regardless of the size it becomes."

Query: I would like to ask Mr. Faustman--did you say that 50% of all trucks on U. S. 99 were coming into Modesto?

Mr. Faustman: 60% instead of 50%.

Mr. Ott pointed out that the new highway in Stockton did not relieve the truck traffic. "There is just as much truck traffic or more on Wilson Way and other streets as before the bypass was built. There was a concept 20 years ago that by-passes would relieve this condition, which did not work out. This concept was that traffic would want to go around and not through the community, and the highway planners felt at that time that the by-pass type of construction should be encouraged. Unfortunately the facts did not bear this out. In Stockton 82% of the traffic is destined for somewhere near the center of town." This is generally true of all cities that are growing communities. It will be true of Modesto as it grows larger. He stated that, at a meeting held last week in Santa Clara to discuss industrial development in California, one of the speakers, an industrial engineer, had stated that promoters of large industries were watching California's growth and he had pointed out that a community needs to be a balanced community. Mr. Ott pointed out that the figures used by the state were indisputable and they point to conditions which the people should recognize. Mr. Faustman's statement regarding trucks, Mr. Ott stated, is justified. He referred to his report, page 4, and briefly reviewed the effect of the freeway on Modesto Schools. He pointed out that a freeway in a poor location would have no control over the through auto and truck traffic. "We cannot discount the fact," he stated, "that plans A and C do encourage trucks through the residential streets--H Street for instance. These factors should be taken into account in the choice of these routes. Even though you want truck traffic to bypass your community the chances are that the trucks will still continue to use 99 Highway." He pointed out the complex problem near the high school if plan A was used.

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Mayor Marks asked the Council what its decision would be on the request of the committee for an advisory vote, and pointed out that the committee had agreed to pay the cost of the election and that they had been promised an answer to their request at this meeting.

Councilman Mellis stated he believed that a vote at this time would not solve the problem, that it would confuse the issue and would split the town in sections.

Councilman Merrill pointed out that this was one of the greatest decisions the Council has had to make (location of Freeway). "I can appreciate the Highway Commission's responsibility in moving traffic economically and fast, but we as Councilmen have a responsibility to our community and our responsibility is just as great as the highway commission's is to the travelling public. We have no direct obligation to the City of Ceres, but we do have a moral responsibility to see that it is not torn apart. We have the figures (State's on origin and destination) which some people question. We know that we have to accept those figures. We have a great responsibility---it has been shown here at this hearing and Council meetings. A great number of people are opposed to Plan B, and the highway commission has told us that our vote had no bearing whatsoever. The Board of Supervisors informally went on record opposing Plan B. Ceres went on record opposing Plan B, and I am opposed to Plan B and I am in favor of Plan A."

Mayor Marks asked Councilman Merrill "what about the advisory vote?"

Councilman Merrill stated, "They have to underwrite it. What does the Council want to do?"

Councilman Annan; "Discuss it before it comes to a vote. Mayor Marks, my position is the same. I do not think the advisory vote is right--weak-kneed. We have an obligation which is a legislative matter and should not be put to vote of the people."

Mr. West. My point is this, "Let's forget about the State of California and look at the City of Modesto. Plan B would be of no help to the City of Modesto. Like to have you vote on a resolution to have nothing to do with Plan B."

Mayor Marks stated that a promise had been made to the Committee of Fair Play to resolve the matter of having a vote of the people in order to decide on these routes. "I have said my piece, Mr. Mellis has stated his position, and Mr. Merrill has stated his position."

Councilman Annan stated that his position was the same as last week as far as having a vote of the people.

Mayor Marks stated that this was a responsibility that the Council would assume, and the decision would be made before the public regardless of what the result might be as far as public opinion is concerned, that basically and fundamentally he did not think an election the right way to decide these issues, and that the problem confronting the city, state, and county was primarily an engineering problem.

Mr. Annan pointed out that the problem confronting the city, state, and county was an engineering problem which could not be decided to the best advantage by housewives of the community and clerks and different people that make up the population of the city. "I have noticed that the Police Chief, sitting over there---and, as far as police questions are concerned I know that he is a specialist--makes the decisions regarding operation of the Police Department. I would enjoy getting out from under this thing. If the public takes the weight off of my shoulders, O. K.

Under certain conditions I am in favor of having a vote. This is the condition. I will not go along with this vote unless the people of the City of Modesto are properly informed on the issue they are going to vote on. There are so many people who would vote who never attended any of these meetings and they do not know anything about it. It is not advisable to urge the people of the city to go and vote on an issue that they do not know anything about. If you folks (Committee for Fair Play) are willing or if it would be given full publicity through the press and over the radio so that anybody can raise any question to the city which could be answered by the city, Mr. Faustman and Mr. Ott, or members of the Highway Department,-- then I would go along with it." Councilman M. Adams stated, "I feel that a vote of the people could not help us in the matter. It is a technical problem involving engineering, and is very difficult for the people to get the facts. Some people do not want the facts. It would delay things seriously and not help us in making up our minds."

Mrs. K. Black called attention to the location of Route A, and contended that any vote by citizens of the city only would be unfair. She pointed out that the Council and the Forward Modesto Committee were looking and thinking of a long range plan for the city, since Plan A would be part of Modesto in 10 years. It would not only be unfair but it would be unjust to reach a decision if only incorporated area is to be considered, she contended.

Councilman R. Adams stated that during the last week he had tried to see as many people as he could and he estimated that he had talked to approximately 200 people and had asked them the question---would you help me as a Councilman---what effect on the city would a vote have as far as the freeway is concerned? He stated that by far the majority of the people had answered with a question---would a vote be conclusive, would the State Highway listen to it? He stated that he had answered those questions as honestly as he could with the information which he had--the State Highway Commission is the final authority and it might have some effect and might not. He stated that some of the people had answered his question that if there was an election and the people of the east side voted for Plan B it would divide the town and then if the Highway Commission would finally decide on Plan B also, it would be one of the greatest tragedies this city has ever had. The people on the west side would forget the Highway Department had had the final say in deciding the plan and blame the people on the east side to eternity. "The deduction of the greatest number of people that I talked to," Councilman R. Adams stated, "is that it should be the responsibility of the Council---they should do what they feel is the right thing. Mr. Mayor, if I would have to vote tonight, I cannot see where a vote of the people would be of any advantage to us."

Councilman Merrill moved the adoption of a resolution, seconded by Councilman Arata, that the Council go on record as favoring Plan A over Plan B. Mayor Marks asked that the consideration of a formal resolution be delayed.

Councilman Arata stated that he wanted what was best for the most people in Modesto.

A person from the audience asked---by what right the Council could recommend a route out of its jurisdiction (Route A).

Mayor Marks pointed out that the state had submitted the three routes and asked "Which in your judgment is the best for the city? We will make the final decision, but what is your recommendation as to which is best for your city?"

A member of the audience: "I live on the west side, Route B would affect me---runs in front of my house. I would expect my property to depreciate 25 to 50%, but as far as having a vote, I think it would be impractical and there would be no opinion expressed in a vote."

Mayor Marks stated, "We are in agreement on that."

Councilman R. Adams stated that all members of the Council had given this very serious consideration and he had followed it as closely as anybody, and the most important factor was the engineering reports. "One thing that has, up until now, not been given serious consideration is the human element on Route B. I have read all the reports, attended nearly all the meetings, and I could not conscientiously today vote for Plan B or against Plan B. I do not know all the facts. The most important factor in my determination is the "human element" and its impact. I believe there would be an answer to it. I cannot make an honest decision nor can I vote for plan A or C. Mr. Mayor, I cannot see where this Council could make any recommendation, cannot see where we could vote against one and vote for another.

Supervisor Clint Wilson stated that the County Board of Supervisors had indicated that Plan A was the best plan submitted and that they were not in favor of Plan B, but that they had not gone any further. No formal vote had been taken, and it had been discussed only informally. He offered the suggestion that the State be requested to maintain both the new route and the old U. S. 99 route through the city.

Mayor Marks pointed out that the people on the west side were at a standstill as far as their property was concerned until a decision was made. He stated that there were two premises, 1) "Nothing done and the traffic problem gets worse and worse; 2) The state has just given us these three routes, two of which help the state motorist, one of which helps solve the traffic of the community. We are elected to solve the traffic problem of the community on an economical basis."

Councilman Annan pointed out that the design of the highway was not being considered, only the location. The manner of egress and ingress to the freeway is not under consideration. The cost of the three routes and the topographic location are the only points under consideration.

One member of the audience asked if the city officials had not anticipated this problem and had a plan of their own, or "if you want to duck the issue and send it out in the county." He stated that he could see a better route than the ones submitted by the state.

Mayor Marks stated that his viewpoint of the plan of his own was shared by many other people and pointed out that the state had only given the city three routes to make a choice from.

Councilman Mellis protested the suddenness of the resolution offered by Councilmen Merrill and Arata, since he also wished to propose a resolution. It was pointed out that he could amend the motion already offered, which could be voted on before the original motion.

Mr. Halley stated that he wished to call attention to the statement of Councilman R. Adams regarding the human element of the problem. He stated that along this line he wished to file petitions opposing Plan B. He pointed out that the ones to be filed at this time represented only about one fourth of the actual petitions, as he had been unable at this time to assemble all the petitions being circulated. He asked if these would assist the Council in making its decision, and if it was interested in having them filed. He stated that he was filing them with the stipulation that he could withdraw them at any time.

Mayor Marks stated that "of course we are interested. We represent the 33,000 people in this city. Your committee will agree that there is not a man sitting on this Council or in the audience who does not have the welfare of this city at heart; that we all love it---we are all interested."

Mr. Halley stated that he wished to make it clear that only a small portion of the petitions were being filed and that he had permission to withdraw them if necessary.

City Attorney questioned the legality of filing petitions with this stipulation, but agreed that they could be accepted on the provision that they would be withdrawn temporarily only.

Mayor Marks suggested that the petitions be submitted at a later time when all of them could be assembled.

Mr. Halley asked if the city had had an opportunity to determine how much the city would lose in taxation if Plan B was put into effect. He pointed out the importance of this information before the Council voted.

Mayor Marks pointed out that the state contends that a city does not lose any money in taxation, that a displaced business will relocate in the city.

Mr. Halley brought up the point of the location of Maze Wren Park on Plan B. He asked if the Council had considered, if this park were taken out of the city facilities, how much it would cost to replace it in another location. He pointed out that this was one of the things to consider along with the "human element".

Mayor Marks pointed out that he had checked with the state regarding other cities where this had occurred and had been advised that they would duplicate the park elsewhere in the city. That this had happened in many communities.

Mr. Halley stated that he wished to submit to the Council for its consideration the fact that when he was city attorney he had examined the deeds and there was a possibility that if any condemnation proceedings on this park occurred this property would revert to the heirs.

Mr. Faustman pointed out a similar incident in the City of Sacramento when a freeway cut off part of a municipal golf course and the state had reimbursed the city enough so that they built a whole new course.

Mr. West summed up his thoughts: The informal vote of the Board of Supervisors opposed the set up as it is now; Councilman R. Adams' idea of the human element was terrific, and he asked if it would not be better for the representatives of the City of Modesto (Council) to say "we do not know where it should be. We will go before the Highway Commission at the public hearing and let the people express their opinions and let the chips fall where they may." "Personally I would think it would be to the best interest of the Council to let the deal go on before the Highway Commission---let the people present their side, and that would be a fair way to handle it."

Councilman Mellis made the following statement: "1. The Forward Modesto Committee, after a comprehensive study, the traffic engineer employed by the city and the planning consultant employed by the city have all approved Plan "B" as the route which should be recommended by the City Council to the State Highway Commission. All of these people reached that conclusion after considerable study of all the angles. 2. I feel that because of the conclusions reached by the experts in this field that if I were required at this time to vote for a specific route that I am compelled to recommend Plan "B". I say this although I personally stand to sustain a heavy financial loss by the adoption of Plan "B". I feel that the interests of the community come before individual interests. 3. However, as there appears to be some doubt as to which plan is best for the community, as well as the State Highway Commission, I believe the Commission should hear all the facts at a formal hearing and thereafter make their decision. 4. I, therefore, recommend this resolution."

Councilman Mellis asked the City Attorney to read the resolution which he had asked him to prepare and moved the adoption of the following resolution instead of the resolution proposed by Councilman Merrill:

## RESOLUTION NO. 54-179

## A RESOLUTION RELATING TO THE LOCATION OF THE MODESTO FREEWAY

WHEREAS, the State Division of Highways has presented three proposed Freeway plans designated as Plans A, B, and C, relating to the location of the Modesto Freeway to the City of Modesto for its consideration, and

WHEREAS, the Forward Modesto Committee made a comprehensive study of the said plans and recommended to the City Council that it favor the adoption of Plan B, and

WHEREAS, the City of Modesto employed a consulting traffic engineer to study said plans and submit a traffic engineering report thereon, and

WHEREAS, the Traffic Engineer submitted his report recommending the adoption of Plan B. and

WHEREAS, the City of Modesto employed a Planning Consultant to study the sociological aspects of the various highway relocation plans, and

WHEREAS, said Planning Consultant submitted his report which concludes that Plan B best serves the needs and general welfare of the community, and

WHEREAS, at the request of the City of Modesto, representatives of the State Division of Highways conducted informal hearings in Modesto in order to provide a forum for fact finding and discussion of this matter, and

WHEREAS, at the said informal hearings so conducted by the State Division of Highways, many residents expressed their views with respect to the said plans indicating a divergence of opinion as to which plan is most suitable to the needs of the community and the state highway system; and

WHEREAS, an organization known as the "Modesto Committee for Fair Play", representing certain residents and property owners on the West side of town, is vigorously opposed to the adoption of Plan B and favors the adoption of Plan A, and

WHEREAS, the City Council of the City of Ceres has taken formal action opposing Plans B and C as harmful to the best interests of that community, and

WHEREAS, the State Highway Commission is charged by law with the responsibility of selecting the best and proper route for the location of the Freeway so as to best serve the majority of motorists using it and to assure that the route selected fits in with the overall state highway system, and

WHEREAS, the State Highway Commission is the agency best qualified to select said route by reason of its experience in handling similar Freeway matters involving other cities and its knowledge of the needs and requirements of the state highway system, and

WHEREAS, the selection of said route by the State Highway Commission should be based upon an analysis of the effect and consequences of each proposed plan as shown by the facts, and

WHEREAS, the City Council has taken steps to have the facts developed as fully as possible and afforded the public ample opportunity for expression of its views, and

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WHEREAS, the City of Modesto has requested the State Highway Commission to conduct a formal public hearing in the City before making its decision,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

That, after conducting a local public hearing on the matter, the State Highway Commission select the plan for the Freeway location which will best serve the needs of the State Highway users and the people of Modesto and environs as shown by all the evidence available to it.

Councilman Mellis introduced

RESOLUTION NO. 54-179

Councilman M. Adams seconded the motion and stated that in consideration of the fact that some of the Councilmen did not fully understand all phases of the problems he was agreeable to this compromise amendment. He had read over the various engineering reports, he stated, and he, as an engineer, looked at the cold facts from the viewpoint of engineering. The two things which he considered in making his decision were 1) service to the community and 2) the economics which had been brought out in the reports. He stated that he personally considered that Plan B would be preferable.

Mayor Marks made the following statement as to his position:

The location of the proposed freeway is important to all the people of Modesto. This decision is important to those who are here now. But it will be even more important to their children who will inherit both the benefits and the problems which will result from the construction of the freeway at any location. As our children look back to the time when this decision was made, I believe that they are entitled to know the basis upon which it was made and I want my position to be made perfectly clear. I have sometimes asked other people to stand up and be counted on issues important to the community. I have always been willing to stand up and be counted myself, and I am willing to stand up and be counted on this one.

Someone has well said, "In making decisions a politician thinks of the next election---a statesman thinks of the next generation." In my sober judgment, in this decision we must take into account not only those who are presently affected but we must also take into account,---and possibly to an even greater extent---the effects on the next generation. I can assure you that every member of this Council will consider this matter on the basis of what is best for Modesto, both now and in the future.

Because of the importance and the complexity of the problem, the City Council obtained the services of Mr. Faustman and Mr. Ott to look at these proposals from a standpoint of what is best for the City and for the Community. In addition to this, the Forward Modesto Committee, composed of over 50 outstanding Modestans, has studied this matter thoroughly. The Forward Modesto Committee, Mr. Faustman, and Mr. Ott have each concluded, after most careful analysis, that Route B is the best for the city. On the other hand, as could be expected, opposition has been expressed to each of the routes, for no matter where the freeway goes some very fine people will be disturbed and displaced. We have listened to and considered all the facts and arguments and objections which have been presented. We have asked everyone to present any facts they consider pertinent.

Based on all of the facts and arguments which have been presented, and taking into account all of the objections which have been raised, not only to Route B, but also to Routes A and C, I am now convinced that the location

of the proposed freeway on Route B would be to the best interests of the people of the City of Modesto. In view of the evidence which is available to us, I cannot honestly take any other position. I know, too, that others have just as honestly reached other conclusions. I might also say that this was not my first opinion. I take this position with the full knowledge that Route B would cause more immediate disruption to the city than would Route A. This fact is, I am convinced, far outweighed by the benefits which would accrue to the city through the construction of Route B and the problems which we would avoid through construction of Route B. This conclusion is based on the following major factors:

1. Either Route A or Route C would require an estimated expenditure of over \$2,000,000 by the taxpayers of the city in excess of that required on Route B.

2. The volume of anticipated traffic, of the order of 30,000 cars a day (or even a substantially lesser figure) which would pass between the Washington School and the Modesto High School, would create an intolerable situation in the area of the schools. This volume of traffic is roughly equivalent to the present volume on 9th Street.

3. The estimated volumes of traffic on 9th Street with either Route A or C would reach the order of 50,000 cars per day by 1973. It would just not be physically possible to handle this many cars on present 9th Street. We are advised that the first logical step in meeting this problem would be to eliminate parking entirely on 9th Street. Such elimination of parking would be a major blow to every business on 9th Street. The next step, which would certainly be required before traffic volume reached 50,000, would be a widening of 9th Street, which would require the cutting off of properties all along 9th Street. Tentative estimates are that the costs of such a widening would be of the order of \$1,000,000 or more, to be paid by the taxpayers of the City of Modesto.

4. Construction of Freeway B Route would provide for the free, safe, easy movement of traffic into and across the town on a highway constructed by the State. The engineers have indicated to us that even with the widening of 9th Street it would be extremely difficult to handle 50,000 cars per day on 9th Street, and that this traffic could be much better served by the type of freeway which is proposed on Route B. It appears to me, then, that through the construction of Route B the community would be obtaining a major modern traffic facility which will be needed in this community in any case, even before we are willing to turn the problems of this community over to our children.

5. Estimates made by recognized methods show that the motorists of the Modesto area, local motorists, would be saved an additional \$10,000,000 in motoring costs during the next 20 years through the construction of Route B. This is an average of \$500,000 per year---local dollars saved to the people of Modesto, which can be used for other purposes if Route B is available.

Route B has been termed a barrier between the east and west sides of the city. It is estimated that with either Route A or C by 1973 there will be over 50,000 cars per day on 9th Street. It should be clearly understood that this will constitute the most effective barrier between east and west Modesto that could possibly be conceived. This would really split the city in two. Certainly the present traffic on 9th Street, about half this amount, already creates a very real barrier between the east and the west sides. As to how effective this barrier would be with twice the vehicles on 9th Street, I leave to your judgment. A number of different signal timing arrangements, computed on a split-second basis, have already been tried to improve the passage of traffic across 9th Street, and still move the present volume on 9th Street. Additional measures will have to be taken as the traffic increases. The problem of crossing the railroad tracks

is one which we face and which must be solved in any case, jointly between the city and the state, no matter what route is chosen for the freeway.

Mr. West asked for and received approval from the Council to present a paper in rebuttal.

A member from the audience congratulated the Mayor for having the courage to make a statement on this problem. Other people have made their own conclusions and they feel the same way, he stated, but they feel that they are not in a position to do that. The west side people should not be tied up any longer than is necessary.

Councilman Annan stated that he wanted the public to know that if anyone wanted to know now how any of the other Councilmen feel on the subject they could ask and a statement would be forthcoming.

Mr. West stated that he wished one point clarified. When the Forward Modesto Committee, composed of 53 members, had voted in favor of Plan B, only 24 had actually voted in favor of the plan.

Mrs. Black pointed out that each member had been furnished with a copy of the report on the freeway before the vote was taken.

The City Manager reviewed briefly the report prepared by Director of Finance Lawrence on the "Tentative estimates of possible effect on proposed freeway location, Route B, on income of the city".

Mayor Marks called for a vote on the resolution offered by Councilman Mellis. The City Clerk called the roll on the amendment.

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: Merrill

Absent: Councilmen: None

Mayor Marks stated that the State Highway Commission would be contacted immediately and asked to call a public hearing which would be held in Modesto, at which time Mr. Halley could submit all the petitions. The public will be heard, and from their findings the Commission will make its decision, he stated.

Mr. Halley asked if he understood from this that the Council planned to leave it up to the commission entirely---whether this was the official or unofficial action taken. He stated that it looked like, by the wording of the resolution, that the majority of the council members expressed themselves in favor of Plan B.

It was pointed out that the official position of the Council was expressed in the resolution just adopted.

Councilman Arata stated that he was in favor of Plan A and intended to fight for Plan A.

Mr. Frad stated that in his opinion the position of the Council in deciding against a vote was ridiculous; that they had decided the matter was too much for them.

Mrs. Black approved the position of the Council and pointed out that one of the human elements to consider on Route A was that there were five schools to be affected. She pointed out the safety angle to be considered on access streets, since 2,740 were presently enrolled in the schools, with a projected increase for the next year of 10%. She also pointed out the community's investment in the schools, with the possibility of decrease in value and ultimate relocation of the schools.

Mr. Halley pointed out that the Council had turned down a vote on the ground that it was its duty to decide this thing and now the Council plans to leave it up to the Highway Commission.

Mr. West stated that he thought the fact that there were different points of view was a healthy condition. He stated that the Council was wise in its action since the Highway Commission would locate the freeway where it is best for the community, that an election would create a controversy for all concerned. He congratulated the Council on its action.

Councilman Merrill introduced

RESOLUTION NO. 54-179A

seconded by Mayor Marks that a letter of appreciation be sent to the personnel office of the Division of Highways, District X in Stockton, for the presenting of the result of its studies at the various public informal meetings, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

PUBLIC HEARING ON REQUEST TO OPERATE TAXICABS OF MRS. AGNES CHANDLER POST-  
PONED

Councilman Mellis moved, seconded by Councilman Arata, which was unanimously carried, that the public hearing on the petition of Mrs. Agnes Chandler to operate a taxicab in the city, be continued until 8:30 P. M. June 23, 1954.

ADJOURNMENT

Councilman Mellis moved, seconded by Councilman Arata, which was unanimously carried, that this meeting be adjourned until 1:30 P. M., Thursday, June 17, 1954.

ATTEST:  REX E. GAILFUS, CITY CLERK

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The adjourned Council meeting of the Council of the City of Modesto convened at 1:30 P. M. this date in the Council Chambers at Fourteenth and I Streets, as provided by Ordinance No. 1084-N. S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Absent: Councilmen: Merrill

FINAL ADOPTION OF ORDINANCE NO. 1131-N. S. CREATING A PARKS AND RECREATION DEPARTMENT

Ordinance No. 1131-N. S. entitled: "AN ORDINANCE CREATING A PARKS AND RECREATION DEPARTMENT, PROVIDING FOR ITS ORGANIZATION AND DIRECTION, AND ESTABLISHING THE OFFICE OF DIRECTOR OF PARKS AND RECREATION", having been heretofore introduced and ordered printed and published at the regular meeting of June 9, 1954, Councilman M. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ACCEPT MAP AND AUTHORIZE RECORDATION OF CAROLAND SUBDIVISION NO. 1

The City Manager reported that Lance E. and Carol L. Ellis had filed the required bond and paid the necessary fees, in amount of \$644.10, as required by Ordinance No. 1041-N. S. and that it would be in order to accept the final map of Caroland Subdivision No. 1. Councilman Annan introduced

RESOLUTION NO. 54-180

seconded by Councilman R. Adams, approving the final map of Caroland Manor No. 1 subdivision, accepting the streets, alleys and easements on behalf of the public for public use, authorizing the City Clerk to certify the map on behalf of the City, authorizing the recording of map with the County Recorder, and authorizing the execution of agreement as required by Section 6.5 of Ordinance 1041-N. S. by the City Manager, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

REPORT ON MEETINGS BY MAYOR MARKS

Mayor Marks reported on the Mayors and Councilmen conference of the League of California Cities held in Santa Barbara, June 3-4, which had been attended by Councilmen Annan and Mellis and himself.

Mayor Marks reported that Councilman Annan and City Manager Miller had accompanied him to the Santa Clara University on Tuesday, June 15, to attend the Western Industrial Development Work Shop conducted by the University of Santa Clara and sponsored by the Chamber of Commerce of the United States, California State Chamber of Commerce, American Institute of Planners, California Chapter, and the College of Business Administration in the University of Santa Clara.

INVITATION FROM CALIFORNIA SAFETY COUNCIL TO ATTEND LUNCHEON IN LOS ANGELES

An invitation from the California Safety Council to attend a Civic Luncheon in Los Angeles, June 23, was read and ordered filed.

LETTER FROM CALIFORNIA STATE FAIR AND EXPOSITION

Mayor Marks read a letter from the California State Fair and Exposition requesting that the City of Modesto furnish an aerial photograph of the city to be used in the commemoration celebration of the 100th anniversary of the fair. The City Manager was directed to carry through on the request.

LETTERS TO BE SENT TO MAGAZINE DISTRIBUTORS IN CITY REGARDING "HORROR COMICS"

Mayor Marks read a draft of a letter which he suggested be sent to all the wholesale magazine distributors in the city asking that they "as conscientious and community-minded citizens establish in their own organization whatever selective purchasing standards are necessary to prevent further merchandising of objectionable literature within Modesto (horror comics) thus making legislation to achieve this end unnecessary."

Police Chief Neel stated that he had been requested by the local distributors to furnish letters along this line which they could use as a "tool to work with".

Councilman Annan moved, seconded by Councilman Arata and it was unanimously carried, that the Mayor be authorized to send the suggested letter to the wholesale magazine distributors in the city, Nichol News Company and the American News Company.

REPORT ON LETTER FROM LABOR'S LEAGUE FOR POLITICAL EDUCATION

The letter from Labor's League for Political Education of Shipyard Laborers, Local 886 asking for the adoption of a resolution relating to the restoring of California ship repair, was again considered. It was agreed by the Council that no action be taken on the request and the letter be ordered filed.

ACCEPT UTILITY EASEMENT AGREEMENT FROM FERREL AND FORTMAN

The City Attorney presented for Council consideration a utility easement agreement from Carol M. and Brewster E. Ferrel and Rex W. Ferrel and Raymond and Margaret L. Fortman, being a portion of the southwest quarter of the northeast quarter of Section 6, Township 2 South, Range 9 East, M. D. B. & M., which granted permit to the city to maintain a sewer line (south section of west sewer trunk line). Councilman Mellis introduced

## RESOLUTION NO. 54-181

seconded by Councilman R. Adams, accepting the utility easement agreement from Carol M. Ferrel, Brewster E. Ferrel and Rex W. Ferrel and Raymond W. Fortman and Margaret L. Fortman, dated May 26, 1954, granting permit to maintain a sewer line, authorizing severance damages in the amount of \$200 to Raymond W. Fortman and Margaret L. Fortman, and directing the City Clerk to record said agreement with the County Recorder after its execution by the designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

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Councilman Arata left the Council meeting at this time.

AUTHORIZE THE INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE EASEMENTS ACROSS THE ARATA AND RIEDEL PROPERTY (SOUTH SECTION OF THE WEST SANITARY TRUNK SEWER LINE)

The City Attorney presented for Council consideration a resolution which would authorize the institution of condemnation proceedings to acquire easements across the property owned by G. B. Podesta and Josephine Arata and David Arata and Arthur J. Riedel for the purpose of construction and maintaining a sanitary sewer trunk line (south section of the west sanitary sewer trunk line).

The Director of Public Works outlined on a map the proposed route of the trunk line and briefly reviewed the reasons for its selection. He stated that in his opinion using the property belonging to Mr. Arata and Mr. Riedel would result in the lowest cost to the public and the greatest public good with the least injury to private property owners.

The City Manager stated that the route was selected after a most careful study of all alternate routes and it is the best route in the public interest with the least damage to private property, and it is the route which should be taken.

A discussion was held on the cost of the condemnation proceedings, and the City Attorney advised that it could involve the cost of expert testimony. The other incidental expenses, would be relatively small, he stated. Councilman Mellis introduced

RESOLUTION NO. 54-183

seconded by Councilman M. Adams, authorizing the institution of condemnation proceedings to acquire easements across certain parcels of land in connection with the construction and use of the west trunk-sewer line, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Arata and Merrill

Councilman Arata returned to the meeting at this time.

ALLOW CLAIM OF H. R. WINDUS ON REFUND OF BUSINESS LICENSE TAX PAID UNDER PROTEST

The City Manager reported that H. R. Windus had filed a claim for the refund of \$19.16 which he had paid under protest on his gross income from inheritance tax appraisals. Mr. Windus claimed that he should not be required to pay a license fee as he was acting in an official capacity for the State of California.

The City Attorney stated that it was his opinion that Mr. Windus should not be required to pay a license fee on that part of his income derived from inheritance tax appraisal in as much as such work was performed in his capacity as a public official. Councilman Arata introduced

RESOLUTION NO. 54-186

seconded by Councilman R. Adams, allowing claim of H. R. Windus for refund of \$19.16 paid under protest, being mill license fee for period July 1

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through March 31, 1954, on gross receipts from inheritance tax appraisals, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

**ESTABLISH TWO HOUR PARKING ZONE ON WEST SIDE OF TWELFTH STREET BETWEEN L AND M STREETS IN THE CITY OF MODESTO**

The City Manager stated that a request for the establishment of two hour parking on the west side of Twelfth between L and M Streets had been filed by the business concerns in this block. They had pointed out that all day parkers prohibited access to their offices by their customers.

The Chief of Police stated that he had investigated the request and recommended its approval.

A general discussion was held on advisability of establishing limited parking in this area and administrative procedures for clearing such matters before presentation to the Council.

Councilman Mellis introduced

**RESOLUTION NO. 54-182**

seconded by Councilman Annan, establishing two hour parking on the west side of Twelfth Street from the property line on the south side of M Street to the property line on the north side of L Street and directing the Director of Public Works to cause the area to be marked in accordance with the provisions of this resolution, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

**APPROPRIATE DONATION OF MODESTO COUNCIL P. T. A. TO L. J. MADDUX YOUTH CENTER FOR FURNISHINGS**

The City Manager reported receipt of a check for \$111.46 from the Modesto Council P. T. A. as a donation to the Modesto Youth Center Furnishing Fund. Councilman M. Adams introduced

**RESOLUTION NO. 54-187**

seconded by Councilman Annan, accepting the donation of \$111.46 from the Modesto Council P. T. A., authorizing the deposit in the Youth Center Furnishing Fund and authorizing the expenditure therefrom, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: Merrill

ACCEPT EASEMENT AGREEMENT FROM MODESTO IRRIGATION DISTRICT (SOUTH SECTION OF THE WEST SANITARY SEWER TRUNK LINE)

The City Attorney presented for Council approval easement agreement from the Modesto Irrigation District permitting the city to construct and maintain a sewer line on the west 25 feet of Block 6007 of the James Tract (~~South section of the west sanitary sewer trunk line~~). Councilman Mellis introduced <sup>Improvement District # 2</sup>

RESOLUTION NO. 54-184

seconded by Councilman R. Adams accepting the easement agreement from the Modesto Irrigation District and authorizing its execution by designated city officials, and directing the City Clerk to record said easement agreement with the County Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ACCEPT GRANT DEED FROM ELAINE BECKER (RIGHT OF WAY INTERSECTION ROSEBURG AND TULLY)

The City Attorney presented for Council consideration grant deed from Elaine Becker covering real property to be used in widening of Roseburg and Tully Avenues. Councilman R. Adams introduced

RESOLUTION NO. 54-185

seconded by Councilman M. Adams, accepting the grant deed from Elaine Becker and authorizing the City Clerk to record said deed with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

REPORT BY CITY MANAGER ON PROGRESS IN OBTAINING RIGHTS OF WAY TO WIDEN TULLY AVENUE

The City Manager reported that the improvement and widening of Tully Avenue was being delayed because certain property owners were unwilling to grant rights of way without payment by the city. The city has been operating on the premise that generally it is not willing to buy rights of way, he stated, and that street improvements will be made with the limited funds available, with preference being given to those projects where cooperation is given by adjoining property owners. He pointed out that it could be possible to start the improvements to Tully Avenue this summer on that portion north of Coldwell Avenue. He stated that he was certain that the problems eventually could be worked out on a satisfactory basis.

CITY MANAGER PRESENTED CITY PERSONNEL TO COUNCIL MEMBERS

The City Manager presented Lloyd Lowrey to the Council members as the newly appointed Director of Recreation and Parks. He reported that Mary Grogan and Kenneth Walts, former employees of the Recreation Department, had been appointed Recreation Superintendents to work under the supervision of Mr. Lowrey.

Mrs. Lenna Abbey, Secretary in the Finance Department, was presented by the City Manager, who stated that her assistance in the preparation of this year's budget had made possible its presentation to the Council at the early date. Mayor Marks thanked Mrs. Abbey for her effective cooperation.

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The financial statement of the City of Modesto to May 31, 1954, was filed.

REPORT ON 18 HOLE GOLF COURSE

The City Manager reported that in accordance with Council instruction he had 1) contacted Mr. Kenneth Durand and received permission to enter his land for the purpose of making a survey and preliminary investigation of a portion of his property which might be used in the development of the proposed 18 hole golf course; 2) discussed with Mr. Durand the possible purchase of some of his land by the city, and 3) contacted Mr. William Bell, Golf Course Architect, who would be in Modesto within the next 10 days. Mr. Bell, he stated, would go over the course without charge and comment on its adaptability. There would be a charge if preliminary plans were prepared by Mr. Bell, he stated.

It was agreed that Council members should tour the property with Mr. Bell.

Mr. Miller advised that Mr. Lowrey and he had recently visited the Golf Course in Sacramento, which had been laid out by Mr. Bell.

SET DATE FOR PUBLIC HEARING ON 1954-55 BUDGET

The City Manager stated that it would be necessary for the Council to set the date for the public hearing on the 1954-55 budget, as provided by the city charter.

Mayor Marks suggested that a meeting, prior to the public hearing, be held to discuss the question of capital improvements in line with the recommendations made by the Forward Modesto Committee.

Councilman R. Adams stated that "the people of this City of Modesto from now on will insist and demand various capital improvements and there is no way in the world we can have those improvements unless we plan for financing them".

Councilman Mellis stated "the longer we delay in getting the necessary steps started to improve our conditions the worse we get---the problem becomes tougher to solve". He suggested that a capital improvement program be studied which would extend over a period of 10 years. He pointed out that the Council appreciated the recommendations of the Forward Modesto Committee but that "we knew we have needed these things ourselves for a long time". He pointed out that the proposed budget for 1954-55, like the past three years' budgets was "tight", and that the city had doubled its size in the past three years. "So I can't see how we can do anything else---let's face it---the only way we can, like other cities in California, is to have a 1% sales tax in Modesto. The public is willing to share the cost and if we have this 1% sales tax and earmark the increase of  $\frac{1}{2}$ % for capital improvement projects, we would have enough in 10 years to do some of the important ones and then we could remove the  $\frac{1}{2}$ % tax. The money would not go into the general fund."

Mayor Marks recommended that "we take the bull by the horns. I am against any increase in the ad valorem tax. This money must be raised in a different way". He commented favorably on Mellis' suggestion for an increase of the sales tax to 1%, allocating the increase of  $\frac{1}{2}$ % for capital improvement, with the determination of priority to be the Council's decision.

It was agreed that priority be given to the building of a city hall, and the 18 hole golf course project so that the city would be able to accept the offer of Mr. Dryden for the 50 acres of land for this purpose.

A general discussion was held on the possibility of a state law being adopted providing for a general overall sales tax, a portion of which would be allocated to the cities and counties.

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Councilman Arata left the Council meeting at this time

Councilman R. Adams introduced

**RESOLUTION NO. 54-189**

seconded by Councilman Annan, setting the date of July 7, at 4:30 P. M. in the Council Chambers of the City, Fourteenth and I Streets, as the date for the public hearing on the proposed 1954-55 budget for the City of Modesto, and directing the City Clerk to publish the required notice in the official newspaper, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata and Merrill

Councilman Mellis moved, seconded by Mayor Marks, which was unanimously carried, that the City Manager investigate the matter of capital improvement programs of various other cities and submit his report to the Council.

**REPORT ON SIGNALIZING INTERSECTION AT ORANGEBURG AND McHENRY AVENUES**

The City Manager reported that a report had been received from the Division of Highways on the signalizing of the intersection at Orangeburg and McHenry Avenues. The division recommends that fully-traffic-actuated signals be installed, with the state paying one-half the cost, city one-fourth, and county one-fourth.

The City Manager suggested, in which the Council concurred, that the city should contact the Division of Highways regarding the possibility of installing progressive movement signals at Granger, Orangeburg and Roseburg Avenues, as a possible alternative to the traffic-actuated system under consideration for Orangeburg and McHenry Avenue.

**DISCUSS LEAGUE OF CALIFORNIA CITIES BULLETIN REGARDING PENDING FEDERAL SOCIAL SECURITY LEGISLATION**

The City Manager briefly reviewed the June 9 bulletin from the League of California Cities advising that June 1 the House of Representatives passed HR 9366, the 1954 amendments to the Social Security Act, which will make O.A.S.I. available to some members of existing city retirement systems (police and fire personnel excluded). The bulletin recommended that the various cities in the state contact Senators Knowland and Kuchel, as well as Senator Milliken of Colorado, Chairman of the Senate Finance Committee, and urge Senate passage of the bill provided it is made no more restrictive than the House version in matters of eligibility for coverage and procedures for local adoption.

Councilman Mellis moved, seconded by Councilman R. Adams, which was unanimously carried, that it was the spirit of the Council to support this legislation and that the City Manager be authorized to support the general position of the League of California Cities and the American Municipal Association.

**DISCUSS LETTER FROM OFFICE OF COUNTY ADMINISTRATOR E. W. HANE RELATING TO CITY COUNTY FISCAL MATTERS**

The City Manager read a letter from E. W. Hane, County Administrator, stating that the Board of Supervisors had directed him to advise the City of Modesto that:

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1. County would provide funds in the Library budget for the fiscal year 1954-55 to carry out the terms of the "Library policy", at a saving to the city of approximately \$20,000 annually.
2. Serious consideration of City's request for financial assistance with the airport budget will be given by the Board at the time the County budget is reviewed.
3. It is the intent of the Board to establish a daily rate of \$1.88 at the jail and \$1.00 at the ranch for the cost of maintaining city prisoners at the two establishments. The County also proposes to bill the City for the costs of hospital services and special guards for city prisoners treated or detained at the County Hospital. These charges would start July 1, 1954, and would be adjusted annually.
4. Bureau of Identification services now provided to the City by the County, teletype services provided to the County by the City and transportation services now billed to the city are to continue under existing agreement.
5. The Board asks that the City agree to reimburse the County in the amount of \$7,040 annually for the cost of health services now given to the City without charge.

The City Manager stated that in regard to the "saving to the City of approximately \$20,000 annually in the cost of operating the library", this was really a charge which the City should never have paid in the first place. He recommended that if the new library policy was not carried out the County be notified that the City of Modesto would withdraw from the county library tax. This "saving" is really a reduction in the loss the city must take. However, he stated, we will proceed on the basis that it can be worked out amicably.

The City Manager stated that it had been his understanding from the joint meetings held that it had been proposed that the City of Modesto would pay its fair and equitable share only for the cost of maintaining city prisoners. "I am tired of the County using the City of Modesto as a whipping post in this thing. Each city should be treated on a fair and equitable basis. Modesto has always paid its bill." He pointed out the possibility of charging cities a larger fee if they did not operate holding jails.

The City Manager stated he did not know what is involved in the proposed charge of \$7,040 for the cost of health services given to the city without charge. He asked that the Council authorize him to proceed on the basis that this city would always pay its bill---what is fair and proper as can be determined by the county for all the cities of the county.

Councilman Mellis pointed out that the City of Modesto pays county taxes and this should be taken into consideration, and suggested that the court might decide on the proper charges.

The City Manager stated that the cities had been slow in filing certain reports with the county relating to the jail. He suggested that the county be asked to advise the city whenever any meeting was to be held when matters relating to the city were to be discussed and that the city would advise the county when county matters are to be considered.

Councilman Annan asked why some of the counties made no charge to the cities for jail services at all. City Attorney Grimes advised that legally the counties could make these charges for certain jail services

and that it was a policy matter. He suggested that since the cities have not furnished suggested charges to the county which they had agreed to do at the last joint meeting, such figures be submitted and a further meeting between city and county officials be arranged to discuss the matter.

It was agreed by the Council that there should be further consideration of joint problems with the duly appointed representatives of the county.

AUTHORIZE ACCEPTANCE OF FUNDS COLLECTED FOR SEWER LINE

The City Manager reported that property owners in two separate areas of two blocks each in the North Central Addition had paid fees for the installation of sewer lines, which were desperately needed, and that these fees had been computed erroneously by the city. There is a small amount still due from the owners. He pointed out that there were two alternatives the city could take: 1) Ask them for additional funds, and 2) instead of spending any more time to get it straightened out, absorb this minor amount, so that no further delay would be necessary to get the sewer service to them. Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the city assume the difference in the fees.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman Mellis, which was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 3:30 P. M.

  
 ATTEST: REX E. GAILFUS, CITY CLERK

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The Council of the City of Modesto met in regular session this date at 7:30 P. M. in the Council Chambers at Fourteenth and I Streets, as provided by Ordinance No. 1084-N. S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Reverend Black of the Baptist Temple.

#### APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Council members having received copies of the minutes of the meeting of June 2, and the same being available for public inspection and there being no objections, the minutes were approved.

#### LETTER FROM McHENRY VILLAGE, INC., REGARDING SUGGESTED CHANGE IN ZONING ORDINANCE FOR McHENRY VILLAGE AREA

City Manager Miller advised that copies of this three page letter had been sent to all members of the City Council and were available to any others who might wish to read it.

#### LETTER FROM J. M. EQUIPMENT CO., STANISLAUS IMPLEMENT & HARDWARE CO., AND VALLEY TRACTOR & EQUIPMENT CO. OFFERING ASSISTANCE WITH PROPOSED CONSTRUCTION OF 18-HOLE GOLF COURSE

A letter from the J. M. Equipment Company, Stanislaus Implement and Hardware Company, and Valley Tractor & Equipment Company was read, offering use of heavy duty machinery to facilitate construction of proposed 18-hole golf course project, and suggesting that other civic-minded people might wish to contribute also toward this end. It was moved by Councilman M. Adams, seconded by Councilman D. Mellis, and unanimously carried that Mayor Marks write a letter of thanks to R. C. Quimby, H. E. Zimmerman, and E. C. Grandall, who signed for the companies, assuring them that the city was following through with all speed on the project and would be happy to take advantage of their offer at the earliest practicable date.

Councilman R. Adams came in at this time, 7:45 P. M.

City Manager Miller advised he had talked with William Bell, golf course architect in Pasadena, and arranged for him to visit Modesto on the 29th, arriving on the 10:15 A. M. plane. It was planned that he would be taken right to the proposed new site and that as many members of the Council as possible would meet with him there. It was pointed out that Mr. Bell was not being paid by the city, except for his plane fare, and that his advice on the situation would be general and preliminary. In the meantime the city would be working with the Drydens in order that there be no unnecessary delay, and City Manager Miller and Councilmen R. Adams and Arata would go over the contiguous land with its owner.

Mayor Marks indicated that it was important to find out right away how much this project would cost and how the city might finance it, since under the present budget set-up there are no funds for capital improvement. He stated he believed it essential that the city decide within the next few weeks how best to finance a planned program of capital improvements. There was discussion of possible ways to do this without

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raising the ad valorem tax rate. A survey of the financing used in other cities for capital improvements is being made.

LETTER FROM THE FOURTH OF JULY COMMITTEE EXTENDING AN INVITATION TO MAYOR AND COUNCIL TO RIDE IN PARADE

An invitation to the Mayor and Council to participate in the parade July 5th was read, and it was agreed that a check would be made within the next few days and the Committee notified how many would be present to represent the city. Mr. Henry Zimmerman described the growth of the July 4th celebration through the last several years, and requested the Council's consideration of a \$1000 contribution from the city this year instead of the \$750 received last year. He pointed out that he and Bill Bates had made themselves financially liable for the project for many years and that it was growing too large to be handled on that basis. He also cited the increasing difficulty of soliciting funds from merchants. He said that the \$1000 requested from the city would amount to approximately 25 per cent of the total expense of the project; that the city, county, and irrigation district have been contributing about 50 per cent in the past. It was pointed out that the Council had been in recent receipt of several requests for increased allotments of funds, that each group had experienced a lessening of public support, but that the city's revenues also were less in proportion to the size of the city. Councilman Annan stated it was most unusual for two private citizens to be responsible for a civic project of such size, and moved that the city grant the \$1000 requested. Attorney Grimes suggested that since this was an item contained in the proposed budget for the next fiscal year, unless the Council desired to take care of it out of this year's reserve it would be better to wait and consider it in connection with the rest of the proposed budget. Mayor Marks summarized the situation by saying that none of the Council members were opposed to the \$1000, but that the budget was tight, and that after the budget had been "wrung out" it would be seen whether additional funds could be granted to this project. Mr. Annan withdrew his motion, and it was agreed that the matter would be given consideration later on with the budget for the next fiscal year.

HEARING ON APPEAL OF CURTIS MOTE FROM PLANNING COMMISSION RULING ON APPLICATION FOR USE PERMIT

This being the time set for hearing of the appeal of Curtis Mote from Planning Commission ruling denying his application for use permit to operate a steam press in an accessory building at 303 Camellia Way, Mayor Marks declared the hearing open at 8:00 P. M.

Attorney Grimes reviewed the history of the use permit request and the reasons for its denial by the Planning Commission on the grounds that it did not meet the requirements for a home occupation---it was not considered that the use was incidental and secondary to dwelling purposes, and it did not meet the criteria that the use was to be entirely within a dwelling as it is defined in the zoning ordinance.\* Mr. Grimes read a letter from Mr. Mote advising that he had built a new building expressly for the use which he had requested and had purchased the press, and that he appealed to the Council for a hearing because he felt the Planning Commission had not fully understood the circumstances. Mr. Grimes pointed out that the erection of the building or purchase of the press without authorization, and the approval or disapproval of neighbors were not controlling on the issuance of a home occupation permit in a residential area. Mr. Mote admitted that the building had been completed after his application was denied by the Planning Commission. Mr. Keyes, of the City Planning Department, outlined the factors considered in the issuance or denial of such a permit, and the Planning Commission's feeling that permission of this use, which did not entirely qualify under the legal

definition of a home occupation, could lead to future breakdown of the clear separation of residential, business, and industrial districts. Mr. Ott, Advisory Planner, advised that under the new zoning ordinance the use proposed would not even be allowed in a neighborhood business zone but only in a general business district.

Mr. Mote pointed out that he intended to do just pressing and for only 4 or 5 days each month and felt that this would not change the character of his property at all. Mr. Ted Feden, of 301 Camellia Way, next door to Mr. Mote, said that he felt the use would be just like bringing home a little bookkeeping and would not disturb anything. Another resident, who lived two blocks away, agreed with him. Mr. Mote submitted a list of the names of 27 people with whom he had discussed the matter, who had no objection to the proposed use. Mr. Janssen, who lived across the street from Mr. Mote, spoke in opposition to the use, citing the future adverse effect it might have upon the neighborhood.

Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the appeal of Curtis Mote be denied.

CONTINUATION OF HEARING ON APPLICATION OF AGNES J. CHANDLER TO OPERATE A TAXICAB IN THE CITY

This being the time set for continuation of public hearing on application of Agnes J. Chandler to operate a taxicab business in the city, Mayor Marks opened the hearing at 8:30 P. M.

Chief of Police Neel reported that standards had been set up for taxi-cab permits on the basis of one taxi for every 2,000 people, but that the standards were general and ratios varied widely from town to town. He advised he had received no evidence which indicated need for additional taxi service within Modesto.

Attorney Damrell, representing Mrs. Chandler, stated that, in conformance with the Council's position that it was incumbent upon the applicant to show need for additional service, he had prepared a petition stating that the signers thereof believed the presently available taxi service inadequate to meet the reasonable needs of the community, and that his client had secured the signatures of some 250 residents of the community. He felt that with additional time an unlimited number of signatures might be secured if such would be accepted by the Council as an indication of need for additional services. He emphasized the comments made by residents of the McHenry Village area and by staff members of the Modesto State Hospital expressing a desire for better taxi service to these areas. He also pointed out the greater confidence which parents might feel in having a woman taxi-driver serve their children. Mr. Damrell cited the F.M.C.'s conclusion that public transportation for this area was inadequate and stated that, because of this, cab service was more than usually vital.

City Manager Miller agreed that there was no question but that Modesto needed better bus service, but pointed out that the question before the Council was whether the formation of another company with additional permits would help the cab situation and would be in the public interest.

Councilman Mellis stated that with 19 permits now issued, and several of them not in use it seemed clear that the community did not provide business enough for any more, and that he did not feel it was in the public interest to start a new company if doing so would only put an old one out of business.

Mr. Damrell stated that in his opinion his client, if granted a permit, would be kept very busy, and that the fact that some companies

were not making money was not a proper basis for believing that another company might not offer better service and be more successful.

Mayor Marks expressed his belief that it was any individual's right to engage in an enterprise for profit and to seek to offer something better than somebody else.

Councilman Arata asked whether the six permits not being used might be held idle for the purpose of preventing more competition. City Manager Miller said that if they were they should be cancelled. A driver for Smitty's Cab Company testified that his firm could handle several times the daily calls it received. He also said they were equipped to take care of the McHenry Village area but found no business there.

Attorney Grimes read the provisions of the ordinance which set forth the basis for the Council's decision as to whether additional certificates may be granted for the operation of taxi cabs.

Sam Secreto, operator of the Yellow Cab Company, advised that the last operator to have a stand at the State Hospital went broke in a short time. Smitty, operator of Smitty's Cab Company, cited the investment necessary in permits, meters, and insurance to keep additional cabs on hand in case business picked up.

Councilman Merrill introduced

RESOLUTION NO. 54-190

seconded by Councilman Arata, granting Mrs. Chandler a certificate of public convenience and necessity to operate two taxicabs in the City of Modesto, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: R. Adams, Arata, Merrill and Mayor Marks  
 Noes: Councilmen: M. Adams, Annan, Mellis  
 Absent: Councilmen: None

Mayor Marks noted that his vote was not based on the petitions, but on the facts as presented.

It was pointed out by the City Manager that if any citizen had knowledge of any delinquency on the part of any taxi operators in Modesto it was his civic duty to submit that information to the Police Department.

AWARD BID FOR LEGAL ADVERTISING FOR FISCAL YEAR 1954-55

The tabulation of bids received for legal advertising for the fiscal year 1954-55 was considered, and a summary prepared by the City Clerk on services, was read. The advantages and disadvantages of daily and weekly publications were discussed. It was agreed that in consideration of general service and of price the Modesto Tribune was lower than the others. Councilman R. Adams introduced

RESOLUTION NO. 54-189

seconded by Councilman Merrill, accepting the bid of the Modesto Tribune and authorizing the city to enter into an agreement with that newspaper for official advertising services for the fiscal year 1954-55, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

AUTHORIZE PARTICIPATION OF CITY IN SPECIAL EDITION OF MODESTO BEE  
COMMEMORATING M. I. D.'S RETIREMENT OF DEBT

A letter was read from the Modesto Bee inviting the City to purchase a one-page ad in the commemorative section of the July 6th issue honoring the M. I. D. on the occasion of its becoming debt free, a copy of which letter had been sent to each Council member. It was agreed that the city was proud of this event in the history of the M. I. D. and wished to extend its congratulations, but that funds were too short to justify the purchase of a whole page. Councilman Merrill moved, seconded by Councilman Mellis, and it was unanimously carried, that the City of Modesto purchase a half-page ad in the commemorative issue.

Councilmen R. Adams and Dan Mellis were named as a committee to help work out the wording of the ad.

The time now being 10:10 P. M., and many items remaining on the agenda, a five-minute recess was declared.

REPORT ON STATUS OF DENNETT DAM INVESTIGATION

Councilman M. Adams reviewed the last Council discussion of this matter, at which preliminary price estimates had been presented for a temporary and a more permanent structure and it had been suggested that construction might be possible along with the highway bridge. He stated subsequent study revealed the bridge pillars are too far apart to be ~~helpful in this~~ way, but there remained the possibility of the two projects being carried on at the same time since they were the same type of construction. Mr. Adams recommended that the preparation of detailed engineering plans and specifications be authorized so that construction could be started in the fiscal year 1954-55, and that the County be urged to participate in these engineering costs and in the subsequent construction costs on a 50-50 basis.

The City Manager advised that arrangements are under way with the State so that the City would have the right of entry into this area while the state contract was under construction.

Mayor Marks said only lack of funds had thus far prevented the construction of this project.

Henry Zimmerman asked whether any effort had been made to achieve State aid, and pledged the assistance of the Tuolumne River Park Association in any way possible.

The City Manager advised that the County had been authorized to work with the City in presenting a formal application to the State in the matter of recreational area assistance, but that he knew of no money available from the state for construction such as Dennett Dam.

Councilman R. Adams advised that the Council's committee on City-County fiscal relations had discussed this matter generally with County representatives and that the County's attitude had seemed favorable---provided a sufficient appropriation was set aside for proper maintenance and there was access from the south side of the river.

Mr. Ed Andrews stated he would like to see the application to the Division of Beaches and Parks pressed along, and that in this way Modesto might save a good deal of money.

Councilman Merrill Adams moved, seconded by Councilman Mellis, and it was unanimously carried, that funds be provided in the next year's budget for preparation of detailed plans and specifications and that the city work with the county to share in the cost of such plans and specifications

and to each start laying aside funds for construction costs.

Mayor Marks named Councilmen M. Adams (chairman), Annan, and Mellis a committee to investigate the probable costs and work with the county.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS ON CONSTRUCTION OF SANITARY SEWER LINE IN BLOCKS 733, 743, 6002 and 6056

Plans and specifications for furnishing all materials, labor and services for the construction of sanitary sewer in Blocks 733, 743, 6002 and 6056 were presented for the consideration of Council. Councilman M. Adams introduced

RESOLUTION NO. 54-192

seconded by Councilman R. Adams, approving the plans and specifications and authorizing the calling for bids to be opened on Tuesday, July 6, in the office of the City Clerk, not later than 2:00 P. M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ADOPT ORDINANCE APPROPRIATING ADDITIONAL REVENUE, 1953-54 FISCAL YEAR

Councilman Arata moved the introduction and passage to print of  
 ORDINANCE NO. 1133-N. S.

entitled: "AN ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR USE DURING THE 1953-54 FISCAL YEAR", which motion being duly seconded by Councilman Merrill, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ADOPT ORDINANCE APPROPRIATING FUNDS FOR PAYMENT OF USUAL CURRENT EXPENSES OF CITY BEGINNING JULY 1 UNTIL ADOPTION OF 1954-55 BUDGET

Councilman Annan moved the introduction and passage to print of  
 ORDINANCE NO. 1132-N. S.

entitled: "AN ORDINANCE APPROPRIATING FUNDS FOR PAYMENT OF THE USUAL CURRENT EXPENSES OF THE CITY OF MODESTO", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ACCEPT CONSTRUCTION OF CURBS AND GUTTERS AT ROOSEVELT PARK FROM TANNER CONSTRUCTION COMPANY AND AUTHORIZE FINAL PROGRESS PAYMENT

The City Manager reported that the contractor, Tanner Construction

Company, had completed the construction of curbs and gutters at Roosevelt Park in accordance with the specifications. Councilman Merrill introduced

RESOLUTION NO. 54-193

seconded by Councilman R. Adams, accepting the work as completed by the Tanner Construction Company, authorizing payment of the balance of \$2,537.10 to said company as due, and authorizing recordation thereof, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ACCEPT COMPLETION OF CONTRACT BY GORDON WHITNALL AND AUTHORIZE PAYMENT OF BALANCE DUE

City Manager Miller reported that by mutual consent both parties had varied somewhat from the terms of the agreement covering the zoning ordinance, but that Mr. Whitnall had now completed its requirements to the city's satisfaction and the contract was considered fulfilled. Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the completion of the contract be accepted and that payment of the \$100 balance due Mr. Whitnall be authorized.

APPROVE EXTENSION OF EXISTING AGREEMENT WITH HARRY JENKS

The City Manager reported it was proposed to continue the present contract with Harry Jenks on the same basis that it was continued last year, there would be no further obligation incurred, but the city could call on him for consultation service if it so wished. Councilman M. Adams introduced

RESOLUTION NO. 54-194

seconded by Councilman Arata, that the agreement with Harry Jenks for consulting sanitary engineering services be extended on the existing basis, and approve the execution of the proposed agreement to this effect, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE RENEWAL OF LEASE FOR AIRPORT PROPERTY--NATHAN J. PROVINCE

The City Attorney presented for consideration of the Council a proposed lease agreement with Nathan J. Province for the rental of an airport hangar, which agreement was essentially the same as that currently in existence with the exception that Mr. Province would hereafter maintain the underground facilities which the city recently took over from the Standard Oil Company. Councilman R. Adams introduced

RESOLUTION NO. 54-195

seconded by Councilman Annan, approving the renewal of the lease agreement for airport property with Nathan J. Province, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE AGREEMENT WITH STANISLAUS COUNTY ATHLETIC ASSOCIATION COVERING  
REIMBURSEMENT FOR SERVICES OF POLICE OFFICERS AT THE MODESTO MUNICIPAL  
BALL PARK

The City Attorney presented for Council consideration an agreement, requested by the Director of Finance, calling for the Stanislaus County Athletic Association to reimburse the city for compensation paid by the city to city police officers for special services performed for the Association at ball games, covering the period April 1, 1954 to and including September 30, 1954, subject to termination on 30 days written notice. Councilman Annan introduced

RESOLUTION NO. 54-196

seconded by Councilman Arata, approving agreement with the Stanislaus County Athletic Association for reimbursement of city for compensation for services of police officers at Modesto Municipal Ball Park, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ACCEPT DEED FROM SHELL OIL COMPANY FOR WIDENING OF INTERSECTION OF ROSEBURG  
AND TULLY AVENUE (S.W. CORNER)

The City Attorney presented for Council consideration a grant deed from the Shell Oil Company covering a 15-foot strip to be used for the widening of Tully Avenue. Councilman Mellis introduced

RESOLUTION NO. 54-197

seconded by Councilman M. Adams, accepting the grant deed, dated June 10, 1954, from the Shell Oil Company, a Delaware Corporation, on property to be used in widening Tully Avenue, and authorizing the recordation thereof, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Annan, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ESTABLISH STOP SIGNS AT INTERSECTIONS OF WESTERN WAY AND SOUTH AVENUE AT  
SUTTER AVENUE

The City Manager reported that the County was prepared to make Sutter Avenue an arterial street and had suggested that the city consider placing stop signs at the two streets which intersect Sutter within the city limits, and that the traffic committee had recommended that they be so placed. Councilman Annan introduced

RESOLUTION NO. 54-198

seconded by Councilman M. Adams, authorizing the installation of stop signs at Western Way and Sutter Avenue and at South Avenue and Sutter Avenue, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

PROHIBIT PARKING AND LOADING IN SPECIFIED PORTION OF ALLEY BETWEEN NINTH AND TENTH STREETS AND BETWEEN I AND J STREETS (PANCAKE ALLEY RESTAURANT)

It was reported that the Council had been asked by the proprietors of Pancake Alley Restaurant to consider the extension of the present No Parking Zone, in the alley between Ninth and Tenth Streets and between I and J Streets, past the door of the restaurant to allow for the entrance and exit of customers. Mayor Marks introduced

RESOLUTION NO. 54-199

seconded by Councilman Arata, prohibiting parking and loading in a specified place in the alley between Ninth and Tenth Streets and between I and J Streets, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE CONTRACT WITH R. P. C. VENDING CO. FOR INSTALLATION OF VENDING MACHINES AT MODESTO HIGH SCHOOL PLUNGE

The City Attorney presented for Council consideration a proposed agreement with the R. P. C. Vending Company for installation of vending machines at the Modesto High School swimming pool, under the terms of which the company would pay to the city 20% of the gross sales on soft drinks and 10% of the gross sales on candy. Councilman M. Adams introduced

RESOLUTION NO. 54-200

seconded by Councilman R. Adams, approving the agreement and authorizing its execution by the proper officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REPORT ON ARTICLE IN "MARALOG MAGAZINE" (MARATHON CORPORATION) RELATING TO NEW PLANT IN MODESTO

The City Manager called attention to the article "California Here We Come" in May-June issue of "Maralog Magazine", published by the Marathon Corporation, which describes Modesto and the company's new plant to be built here, and outlines the basis on which the site was chosen.

REPORT ON STATUS OF REVISION OF PERSONNEL RULES

The City Manager reported that a public hearing on the revised personnel rules would be held by the Personnel Commission in the Council Chambers on June 28, at 7:30 P. M.

PRELIMINARY REPORT ON NEED FOR SALARY ADJUSTMENT IN CERTAIN CLASSES

The City Manager reported that there was need to consider salary

adjustments in some classes where present salary ranges were making it difficult for the city to obtain and retain qualified personnel.

APPROVE PROPOSED SELECTION OF NEW TRAFFIC ENGINEER

The City Manager reported that agreement had been reached with the Parking Authority as to the selection of Douglas James Carmody, presently with Alameda County, for the position of Traffic Engineer, at a monthly salary of \$800 to be paid half by the Parking Authority and half by the City, with his time to be divided accordingly. He listed Mr. Carmody's qualifications and experience and reported the enthusiasm expressed by members of the Parking Authority who had assisted in the selective interviewing. Councilman R. Adams described his own impressions of the candidate, which were most favorable, and pointed out how valuable Mr. Carmody's past experience with freeway construction would be to the City of Modesto. Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the employment of Mr. Douglas Carmody as Traffic Engineer be authorized.

CONSIDERATION OF 1954-55 BUDGET

The City Manager directed the Council's specific attention to the items which were not included in the budget, for which no funds had so far been allocated, appearing on a supplementary list following the budget message. He suggested that the Council study the whole budget before deciding on projects to which it would like to allocate reserves, and pointed out that any addition to the reserves would have to come from a corresponding cut in the budget as proposed.

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman Merrill, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:15 P. M.

  
ATTEST: REX GAILFUS, CITY CLERK

6-23-54 p.10

Council Meeting  
July 7, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P. M. in the Council Chambers at Fourteenth and I Streets, as provided by Ordinance No. 1084-N. S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks

Absent: Councilmen: Annan and Merrill

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

The invocation was given by Rev. Allan Goozee, of the First Methodist Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of June 9 and June 16, and the same being available for public inspection, and there being no objections, the minutes were approved.

Councilman M. Adams came in at this time, 4:08 P. M.

#### LETTERS FROM SENATORS KNOWLAND AND KUCHEL RE ANNUAL REPORT

The City Manager read to the Council the letters he had received from Senators Knowland and Kuchel regarding the city's annual report.

#### REQUEST OF VETERANS OF FOREIGN WARS RE DISPLAY OF AMERICAN FLAG

Mr. Floyd E. Ebbers, representing the Veterans of Foreign Wars, reminded the Council that some years ago an effort had been made to have provided in front of each local business establishment a sidewalk hole to facilitate display of the flag on appropriate occasions, and reported that these still did not exist in many places. He requested Council approval of such holes, and that the city furnish the equipment for drilling them, and that his organization would furnish the manpower necessary. It was agreed that the City Manager would work with Mr. Ebbers to find the best and most economical way of providing the means for flag display.

#### COMMUNICATION FROM J. A. SALETTA RE OBJECTIONABLE COMIC BOOKS

A letter from Mr. Saletta, of Nichol News Company, was read, in which he pledged his company's full cooperation in self-censorship to prevent further distribution of objectionable comic books and avoid need for legislation. He submitted copies of letters he had written his publishers, his dealers, and his wholesalers' association advising them of his position.

#### LETTER FROM MODESTO WOMENS C. T. U. RE OBJECTIONABLE COMIC BOOKS

A letter was read from Mrs. W. F. Ogden, Secretary of the Modesto Womens' Christian Temperance Union favoring passage of an ordinance prohibiting the sale of objectionable comic books. The City Clerk was authorized to write Mrs. Ogden advising that distributing agencies within the city had been urged by the Council to try self-censorship and that the Council believed opportunity should be given for such resolution of the problem before considering legislation.

#### REQUEST FROM CLARA REICHENBACH FOR STREET LIGHT ON CORNER OF COLLEGE AVENUE AT M. I. D. LATERAL

A letter from Clara Reichenbach was read requesting consideration be given to installation of street light near tracks of Tidewater Railroad and M. I. D. Canal at College Avenue. The matter was referred to the City Manager for investigation.

COMMUNICATION FROM LEAGUE OF CALIFORNIA CITIES RE TAX EXEMPTION OF CERTAIN VESSELS, AND SOLICITATION OF CONTRIBUTIONS RE S-3315 BY A LOUISIANA ORGANIZATION

The City Manager summarized for the Council's information and concurred in the recommendations of a communication from the League of California Cities suggesting that amendment to Section 4 of Article XIII of the California Constitution not be supported on the grounds that further tax exemptions of this type are not desirable; and recommending that solicitations for contributions from the Southwest and Central Municipal Improvement Association of Louisiana be disregarded.

LETTER FROM JUNIOR CHAMBER OF COMMERCE - CALIFORNIA RELAYS

A letter was received from the Junior Chamber of Commerce thanking the City for its cooperation in the recent California Relays.

RESOLUTIONS OF COMMENDATION FROM PLANNING COMMISSION - ROBERT C. KEYES, PETE BARTON

Resolutions were read which had been adopted by the Modesto City Planning Commission at its July 6 meeting, commending Robert C. Keyes for his services as Planning Technician and Acting Director of Planning and commending Pete Barton for his services as a Planning Commissioner. Mayor Marks was authorized to write to Mr. Keyes expressing the Council's appreciation of his services. He advised that he had already so written Mr. Barton.

PRESENTATION OF BOB COOK, PLANNING OFFICE

Bob Cook, who is assisting with Planning matters during this interim period, was presented to the Council by the City Manager, who also cited the "stalwart service" of Mrs. Roberts, of the Planning Staff.

PETITION FROM RESIDENTS OF JOHN MUIR PARK AREA REQUESTING CLEARING OF SHRUBBERY

Mr. Fred Curtis described the present overgrown condition of John Muir Park and outlined the interest of nearby residents in further clearing of the shrubbery. Mrs. Willard Thomas presented a petition signed by 70 parents requesting such clearance and urged the Council to visit the park to confirm the need. The matter was referred to the City Manager and the Director of Parks and Recreation for checking and clearing with the people in the area.

REQUEST OF A. M. McCOY FOR LIMITED PARKING ON NINTH STREET BETWEEN O AND P

Police Chief Neel reported a study had been made of the parking needs in this area where parking on east side Ninth Street between O and P Streets is now unlimited, and that apparently all-day parkers fill the two parking spaces in front of Brownie's Pet Shop, next door to 7-Up Bottling Co. He advised that the only objections to extension of 2-hour zone on the east side of Ninth through this block came from 7-Up Bottling Company which wishes space for all-day employee parking, but that unlimited parking is available on intersecting streets for this purpose. Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously approved, that the City Attorney be instructed to draft a resolution extending 2-hour parking restrictions through east side of this block.

AUTHORIZE CALLING FOR BIDS ON CONSTRUCTION OF TRUNK SEWER LINE ON GRANGER AVENUE BETWEEN McHENRY AVENUE AND HONEYSUCKLE DRIVE

The City Manager advised that this would extend the Granger Avenue trunk sewer line eastward to the end of the area which requires a trunk sewer, and would reach the new medical center. Councilman Mellis introduced

RESOLUTION NO. 54-201

seconded by Councilman M. Adams, approving the plans and specifications for the construction of sanitary sewer trunk lines on Granger between McHenry Avenue and Honeysuckle Drive and on Roseburg Avenue at McHenry Avenue; authorizing the calling for bids, which will be opened at 2:00 P. M., on July 26, 1954, in the Council Chambers, which resolution was adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

HEARING ON BUDGET FOR FISCAL YEAR 1954-55

Mayor Marks declared the hearing open to consider the adoption of the budget for the fiscal year 1954-55. The City Manager advised that he considered the proposed budget a "reasonable but tight operating budget for a greatly expanded city," and pointed out the methods being used to "stretch" methods, machines, and men in order to maintain and improve the level of services while spending less per capita---\$97 last year, \$76 this. He called attention to the list of items proposed but not included in the budget, some of which might be financed from reserves or by substituting for items presently included in the proposed budget, but the remainder of which could not be taken care of unless additional funds were provided. These items were discussed in the light of their need and money which the city could save if it could arrange to provide some of them at once.

Mayor Marks pointed out the impossibility of cutting anything more from the budget and the need of the community for the capital improvement items which therefore would go unfinanced. He read a statement declaring himself in favor of proposing to the people of Modesto that an increase in the sales and use tax of 1/2¢ be adopted, the revenue therefrom to be earmarked specifically for capital improvements. A copy of the statement was filed with the City Clerk. Various members of the audience expressed their approval of this proposal. Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously approved, that a hearing be held for public discussion of this proposal at 8:00 P. M. on July 14, at the next Council meeting.

The City Manager pointed out that if the funds from such an increase in sales tax were placed in a special fund for capital improvements neither the present Council nor any succeeding Council could use it for any other purpose unless the people of the city so voted. Mayor Marks reported it was estimated that such an increase in the sales tax would result in approximately \$300,000 revenue per year, while a 10¢ increase in the tax rate would bring in only about \$32,000 and it would take an increase of \$1.00 in the property tax to approximate the same revenue as the 1/2¢ sales tax. The Council instructed the City Manager to send copies of the Mayor's statement on the proposed sales tax increase to civic groups and service organizations and urge attendance of both proponents and opponents at the July 14 hearing.

It was agreed to postpone detailed consideration of the list of capital improvements which had not been listed in the proposed budget until public response to an increase in the sales tax could be learned, since

approval of this means of financing the needed improvements would remove the need for selecting only a few. The City Manager cited some proposed adjustments in amounts now listed in the proposed budget. He pointed out the cut in recreation funds budgeted by the County, and called special attention to the action taken in the Fremont School area where parents are establishing and privately financing a summer recreation program for their children, to which the city will contribute some equipment. The City Manager reported that the matter of jail costs was still under consideration with the County, and also that a report would be presented shortly with regard to the need for salary adjustments. Councilman M. Adams moved, seconded by Councilman R. Adams, and it was unanimously approved, that the budget hearing be held over for continuance at 9:00 P. M. at the July 14 Council meeting.

AWARD BID ON CONSTRUCTION OF SANITARY SEWER LINE IN BLOCKS 733, 743, 6002, and 6056

The City Manager reported that there was a minor irregularity in the low bid submitted, which would in no way affect the legality of the proposal, and that he therefore recommended that it be accepted. Councilman M. Adams introduced

RESOLUTION NO. 54-202

seconded by Councilman Mellis, waiving minor irregularity in the low bid and accepting the bid of Ted Swinford Construction Co. of \$6,362.50 for the construction of sanitary sewer line in Blocks 733, 743, 6002 and 6056, and authorizing the execution of an agreement for completion of the work by the city's authorized officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

APPROVE AGREEMENT WITH CODDING HOMES FOR WATER AND SANITARY SEWER SERVICE TO McHENRY VILLAGE SUBDIVISION #1

Terms of the proposed agreement with Coddling Homes for city water and sewer service to McHenry Village Subdivision #1 were outlined by the City Manager, who advised the agreement was similar to the one entered into with relation to Briggsmore Tract, and that the owners agreed to annex as soon as contiguous to the city limits. Councilman M. Adams introduced

RESOLUTION NO. 54-203

seconded by Councilman R. Adams, authorizing execution of the agreement by appropriate city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

REPORT ON REQUEST OF DALE COVERT FOR STOP SIGN AT BODEM, HARRIETT, AND DOWNEY AVENUES

The City Manager reported that the Chief of Police had made a thorough study of the traffic situation at this location and found insufficient justification for the proposed signs. He advised that Mr. Covert had received a full report and accepted the decision, and he recommended no further action be taken on the request.

REPORT ON NEGOTIATIONS WITH BARIUM PRODUCTS COMPANY RE INDUSTRIAL SEWER SERVICE CHARGES

The City Manager summarized the background of the situation---that the ordinance setting industrial rates for sewer service does not apply to users outside the city, that in general the city does not serve any users outside, but that the Council has the authority to set rates for such users by resolution or agreement. He pointed out the established practice of entering into agreements only with those who plan to annex but are not immediately in a position to do so, on the basis that they will annex to the city as soon as it becomes possible to do so, and that the established ratio of residential sewage fees to people outside the city are approximately three times the city rate. He stated Barium Products is an industry important to the community, that it has been made acquainted with the city's belief that it should annex, with the city's willingness to cooperate by giving it a period to work out annexation similar to that allowed for other industries, to work out a satisfactory rate basis, and the city's interest in meeting with its top officials for friendly discussion and clarification of the problem. Councilman Arata moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager be authorized to communicate with Barium Products Co., suggesting its annexation of its property to the city, advising them that for the interim period their sewage rates will be the same as if it were a part of the city, but that after the first of February if it has not made other arrangements the city will have to charge on the basis established for service to firms outside the city, or three times the fee to city users, and inviting its representatives to meet with city officials to discuss the matter.

ADOPT PERSONNEL RULES AND REGULATIONS

The City Manager pointed out the great amount of time and effort by the Personnel Office and the Personnel Commission in preparing the proposed rules and regulations for Council consideration. The Assistant City Manager advised that the rules were proposed to be effective as of July 1, except for certain vacation provisions, and that they had been approved by the Employees' Association Executive Board, and by the representatives of the Police Department Association, and the Fire Department Employee's Association, and recommended for Council adoption by Personnel Commission's resolution at June 28 public hearing. Councilman Mellis introduced

RESOLUTION NO. 54-204

seconded by Councilman R. Adams, adopting the personnel rules and regulations as presented, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

ORDINANCE ESTABLISHING THE PERSONNEL SYSTEM AND REPEALING THE EXISTING PERSONNEL ORDINANCE

The Assistant City Manager outlined the changes in terminology made to conform with the personnel rules and to clarify certain procedures, the changes being numerous enough that a complete substitute ordinance was being proposed. Councilman M. Adams moved the introduction and passage to print of

ORDINANCE NO. 1134-N. S.

entitled: "AN ORDINANCE OF THE CITY OF MODESTO ESTABLISHING A PERSONNEL SYSTEM AND REPEALING ORDINANCE NO. 1031-N. S.", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed published by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

Mayor Marks was authorized to write to the members of the Personnel Commission to express the Council's appreciation of and thanks for their work on the Personnel Ordinance and the Rules and Regulations. Assistant City Manager Shelton advised that the classification plan would be ready for Council consideration in the near future.

ACCEPT CONTRACT FOR CONSTRUCTION OF PUMP HOUSES NO. 1 AND 17

The City Manager reported that the contractor Edward O. Tomlinson had completed construction of Pump Houses Nos. 1 and 17, and that acceptance of the work had been recommended by the Public Works Department. Councilman M. Adams introduced

RESOLUTION NO. 54-205

seconded by Councilman R. Adams, accepting the construction of the pump houses and authorizing the recording of Notice of Completion with the County Recorder and payment as provided in the contract, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

DISCUSS REQUEST OF MOLESTO GARBAGE COMPANY FOR RATE INCREASE

The City Manager pointed out that the request for increased rates was directly related to the distant location of the present disposal site, and that financial data submitted by the company indicated an increase in rates would be necessary if the present dump 19 miles from the city continued to be used. He stated that it had been estimated that it cost the community \$40,000 to \$50,000 additional per year to maintain so distant a disposal site, but pointed out that it was necessary to cooperate with the county in this matter. He quoted estimates made by the garbage company which indicated that if a close-in site for disposal could be arranged for, twice weekly pick-ups might be possible for all city residents during the hot months of the year at the same or only slightly increased fees, and urged that prompt action be taken to settle the matter. It was agreed that city representatives would meet with county officials immediately and present a further report at the next Council meeting, July 14.

DENY REQUEST OF SAM SECRETO TO TRANSFER CAB STAND FROM 923 H STREET TO 1003 TENTH STREET

After general discussion of the matter of taxi-stands, and specific consideration of the fact that another company, newly permitted to operate, had also requested this location, Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that Mr. Secreto's request to transfer his cab stand from 923 H Street to 1003 Tenth Street be denied.

GRANT REQUEST OF AGNES CHANDLER FOR TAXICAB STAND

After discussion of Mrs. Chandler's request for two taxistands at 1003 Tenth Street and consideration of the opposition of representatives of Grayson's, at that address, to the granting of two taxi stands in front of their store, Councilman Arata moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Attorney be instructed to prepare a resolution granting Mrs. Chandler permission to operate one taxi stand at 1003 Tenth Street.

GRANT PERMISSION TO SAM SECRETO TO TRANSFER CAB STANDS FROM PRESENT LOCATION ON H STREET TO CORNER OF TENTH AND J STREETS (HUGHSON HOTEL)

In consideration of the statement of Mr. Secreto that his present cab stand on H Street was not a good location for business, and at his request that he be allowed to move back to the location at Tenth and J Streets (Hughson Hotel) approximately where he formerly had operated, Councilman M. Adams moved, seconded by Mayor Marks, which motion was unanimously carried, that the City Attorney be instructed to draft a resolution effecting this change in location.

REPORT ON STATUS OF PROPOSED CONSTRUCTION OF JUNIOR COLLEGE COMFORT STATION

The City Manager reported it had been found clearance with the State Division of Architecture was necessary before construction could proceed and that some structural changes may be necessary. The low bidder was present and agreed to allow the city more time for decision. It was agreed to hold the matter over for further effort to clear before taking Council action.

CONSIDER REQUESTS FOR REFUND OF WAIVER OF PENALTIES ON MILL LICENSE TAX, BUSINESS LICENSE TAX

After consideration of requests from four firms for refund or waiver of penalties, each having been filed within thirty days of written notice to the taxpayer, and each having been recommended for waiver by the Director of Finance, Councilman R. Adams introduced

RESOLUTION NO. 54-206

seconded by Councilman M. Adams, authorizing a refund to Federal Department Stores of \$26.77 penalty charges paid as a result of delinquent license fee payments under the business license ordinance, said delinquency having been found not intentional or by reason of carelessness, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan and Merrill

Councilmen: M. Adams introduced

RESOLUTION NO. 54-207

seconded by Councilman Arata, authorizing waiver of \$84.24 penalty charges assessed to Lee Brothers as a result of delinquent license fee payments under the business license ordinance, failure to pay on time having been not intentional or by reason of carelessness, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan and Merrill

Councilman Arata introduced

RESOLUTION NO. 54-208

seconded by Councilman M. Adams, authorizing waiver of \$11.76 penalty charges assessed to Z. Taylor as a result of delinquent license fee payments, failure to pay on time having been found not intentional or by reason of carelessness, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

Councilman M. Adams introduced

RESOLUTION NO. 54-209

seconded by Councilman R. Adams, authorizing waiver of \$48.84 penalty charges assessed to Andrews Electrical Motor Works, as a result of delinquent license fee payments, failure to pay on time having been found not intentional or by reason of carelessness, on condition that the tax deficiency of \$195.36 be paid within ten days of granting of waiver, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

APPROVE PROJECT AGREEMENT FOR EXPENDITURE OF GAS TAX FUNDS 1954-55

The City Manager advised that the agreement covered projects formerly approved by the Council and outlined the projects. Councilman R. Adams introduced

RESOLUTION NO. 54-210

seconded by Councilman Mellis, approving agreements with the State Division of Highways for expenditure of gasoline tax allocation for major city streets in Modesto and authorizing its signature by the Mayor and City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS ON CONSTRUCTION OF SANITARY SEWER LINE ON COLDWELL AVENUE BETWEEN ALLEY OF BLOCK 803 AND TULLY ROAD

The City Manager advised this was a portion of the line which serves the Modesto Junior College, and that an agreement had been worked out with the schools under which they would extend the sewer from College westward. Councilman R. Adams introduced

RESOLUTION NO. 54-211

seconded by Councilman M. Adams, approving the plans and specifications for the construction of sanitary sewer line on Coldwell Avenue between alley of Block 803 and Tully Road, and authorizing the calling for bids for furnishing all labor, materials, and equipment necessary, said bids to be opened at 2:00 P. M., July 19, in the City Clerk's Office in the City Hall, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and Merrill

REPORT PROGRESS ON SEWER AND LIGHTING DISTRICT IN LA LOMA-YOSEMITE AREA

The City Manager reported the area in question had been re-polled and tentative proposed boundaries have been drawn for a sewer district,

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omitting the areas in which insufficient interest was expressed, and for a somewhat more restricted area in which lights are proposed to be installed maps of which are being prepared.

#### REPORT ON INVESTIGATION OF PROPOSED 18-HOLE GOLF COURSE

The City Manager reported that Mr. Wm. Bell, golf course architect who had visited Modesto to go over the proposed site, had declared the soil to be excellent and the nature of the site far above average. It was reported that no commitments had been made to Mr. Bell, but that he was prepared to proceed with preliminary plans for a fee of \$500, and had advised that acreage could be saved by "cutting your land to the course". The City Manager reported that the Drydens had maintained a flexible attitude, but that it would be essential to determine exactly the location of the clubhouse before the transfer of land could be completed. It was agreed that in view of the possibility of adopting the  $\frac{1}{2}\%$  sales tax, decision on the golf course matter would be held over another week.

#### REPORT ON NEGOTIATION WITH JOE MINENI FOR PURCHASE OF RIGHT OF WAY

It was reported that a Council committee had met with Mr. Mineni and worked with the engineers and appraisers, and that the committee recommended that the city purchase from Mineni a strip, 13.3 foot, more or less, along the east side of his property at Johnson and Downey for a price of \$3,000. This would be sufficient for a 40-foot curb to curb street plus a 5-foot sidewalk on the west side. Some urgency was noted, in that if the zoning became commercial, construction would be permitted to the eastern property line, in which case future widening would be impossible. It was suggested that this might be a matter the new Traffic Engineer could assist with, and it was agreed that it would be helpful for the Council to look at the site, and that the matter would be carried over to next week's agenda.

#### REPORT ON INFORMATION RECEIVED FROM OTHER CITIES ON CAPITAL IMPROVEMENTS

The Director of Finance distributed copies of a summary he had prepared of replies received from other cities to a questionnaire regarding their long-range plans for capital improvements and the means used to finance them.

#### REPORT ON RESULTS OF OXYGEN TESTS IN THE TUOLUMNE RIVER BY THE REGIONAL WATER POLLUTION CONTROL BOARD

A report was received from the Regional Water Pollution Control Board on its check of the oxygen content of the Tuolumne River, which report indicated the river was clear and free of visible solids of waste origin at all stations.

#### REPORT ON REQUEST FOR STREET OPENING EAST OF TULLY ROAD AND SOUTH OF HARDIN TRACT

The City Manager reported that the request that this alley be made a street was a rather complicated one and that the Public Works and Planning Departments would continue to work with the owners.

#### REMIND COUNCIL OF LEAGUE MEETING ON THURSDAY IN MANTECA, JULY 15

It was announced that the Manteca dinner meeting of the Central Valley Division of the League of California Cities would be held July 15, with an outstanding panel to discuss problems of streets, highways, and freeways, and attendance by Modesto representatives was urged.

#### ADJOURNMENT

It was moved by Councilman M. Adams, seconded by Councilman Arata, and unanimously carried that the meeting now in session adjourn. The meeting adjourned at 7:15 P. M.

ATTEST: REX E. GRILFUS, CITY CLERK

The Council of the City of Modesto met in regular session this date at 7:30 P.M. in the Council Chambers at 14th and I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Absent: Councilmen: Merrill

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

Invocation was given by Rev. William Todd of the United Brethren in Christ.

#### APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Council members having received copies of the minutes of the meeting of June 17, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### APPEAL FROM DECISION OF PLANNING COMMISSION PROHIBITING THE OPERATIONS OF A TELEVISION AND RADIO REPAIR SHOP AT 148 MELROSE AVENUE

A letter was read from Claude D. Bennett appealing from the decision of the Modesto City Planning Commission prohibiting the operation of a television and radio repair shop in the garage in rear of his residence at 148 Melrose Street. Councilman Annan moved, seconded by Councilman M. Adams, which was unanimously carried, that a public hearing be set for 8:00 P.M. July 28.

Councilman M. Adams asked that information relative to this case be furnished the Council members for their study prior to the hearing.

#### BULLETIN FROM LEAGUE OF CALIFORNIA CITIES: RE: FEDERAL-AID AIRPORTS

A bulletin from the League of California Cities, enclosing a bulletin from the American Municipal Association, regarding Federal-Aid Airports, was read. The bulletin advised that the House subcommittee on appropriations had turned down the Eisenhower request for \$22 million to restore the Federal-Aid Airport Program. The A.M.A. urged that cities send telegrams to President Eisenhower supporting his request and urge him to fight for the program by getting his Congressional leadership behind it; telegrams to the members of the House of Representatives from California calling attention to the fact that the program was cut off last year, despite the fact that many municipalities had already floated bond issues in good faith that the Federal-local partnership would be retained; and to Senators Knowland and Kuchel, asking them to appear before the Senate Appropriations Committee in person supporting the Eisenhower-AMA position.

The City Manager pointed out that the bill proposed to eliminate Federal aid for terminal buildings and that the A.M.A. had opposed this position. He also called attention to the wording proposed for the federal contribution "is of sufficient national importance to warrant financial participation by the U.S." which could mean that no aid would be given to small airports. He pointed out that if this bill was adopted as proposed that the City of Modesto might not be eligible to receive funds for the extension of its runway. He recommended that a Federal-aid program be supported on the same basis as it had operated for many years.

Councilman Mellis introduced

#### RESOLUTION NO. 54-212

seconded by Councilman R. Adams, instructing the City Clerk to send the tele-  
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grams to the President, Senators, and members as requested by the American Municipal Association urging support of the Eisenhower-AMA position calling for restoration of Federal-aid to airports, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

LETTER FROM P. S. BOMBERGER REGARDING PLANTING OF SHRUBBERY AT THE JOHN MUIR PARK

A letter was read from P. S. Bomberger calling attention to the fact that the understanding with the Council at the time the John Muir Park property was deeded to the city for park purposes was that the type of planting now in existence was a part of the condition of the gift. The City Manager stated that this would be considered at the time Director of Parks and Recreation Lowrey and he met with the citizens residing near the park, who had protested to the density and location of the shrubbery in the park. He expressed confidence that the problem would be worked out satisfactory to all concerned.

LETTER FROM VALLEY BUILDERS' EXCHANGE INC. RE: KEY CITY EMPLOYEES LEAVING EMPLOY OF CITY OF MODESTO

A letter was read from Henry E. Anderson, Secretary of the Valley Builders' Exchange, Inc. regarding the raising of the salary wage scale for key city employees to a level to encourage their permanent employment rather than "a stepping stone to a job in another city" and expressing support of the proposed increase in the city's sales tax one-half of one per cent. Mayor Marks asked and received consent of the Council to answer the letter.

APPROVE SPECIFICATIONS FOR LAMPS FOR YEAR ENDING JUNE 30, 1955, AND AUTHORIZE CALLING FOR BIDS

Specifications for the furnishing of various types of lamps for municipal lighting for the period of one year beginning July 1, 1954 were reviewed by the City Manager. Councilman Annan introduced

RESOLUTION NO. 54-213

seconded by Councilman Arata, approving the specifications for the lamps and authorizing the calling for bids, said bids to be opened at 3:00 P.M. July 26, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ELIMINATE TAXICAB STAND OF SAM SECRETO DBA/YELLOW TAXICAB COMPANY ON H STREET AND ESTABLISH TAXICAB STAND ON NORTH SIDE OF J STREET BETWEEN 10-11th STREETS

As requested, City Attorney Grimes presented a resolution for Council consideration, eliminating the taxicab stand assigned to Sam Secreto on the north side of H Street. Councilman R. Adams introduced

RESOLUTION NO. 54-214

seconded by Councilman Mellis, eliminating the taxicab stand on the north side of H Street between Tenth and Ninth Street presently used by Yellow Cab Company and establishing a new stand for the company on the North side of J Street, beginning at the east property line of Tenth St. and extending 27 feet east on J St. and rescinding Resolution No. 10,364-N.S. which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ESTABLISH TAXICAB STAND FOR JOANN'S TAXI AT 1003 TENTH STREET

The City Attorney presented a resolution, as requested, for Council consideration establishing a taxi stand for Joann's Taxi. Councilman Arata introduced

RESOLUTION NO. 54-215

seconded by Councilman M. Adams, establishing a taxicab stand for Agnes J. Chandler, doing business as Joann's Taxi on the west side of Tenth Street, beginning at the North property line of J Street and extending 25' North on Tenth Street, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

RESOLUTION ESTABLISHING TWO HOUR PARKING ZONE ON EAST SIDE OF NINTH STREET BETWEEN O STREET AND P STREET

The City Attorney presented a resolution for Council consideration establishing a two hour parking zone on the east side of Ninth Street between O and P Streets. Councilman M. Adams introduced

RESOLUTION NO. 54-216

seconded by Councilman Annan, establishing a two hour parking zone on the east side of Ninth Street between O Street and P Street, and rescinding that portion of Resolution No. 4193-N.S. and all resolutions or portions of resolution in conflict herewith, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

FINAL PAYMENT DEEP WELL PUMPS AT STATIONS NOS. 1 AND 17, ACCEPT CONTRACT FROM WESTERN PUMP COMPANY, AUTHORIZE NOTICE OF COMPLETION

The City Manager reported that the contract for furnishing deep well pumps for Pump Stations No. 1 and 17, had been completed by the Western Pump Company and that progress payment and the filing of notice of completion had been recommended by the Director of Public Works. Councilman Arata introduced

RESOLUTION NO. 54-217

seconded by Councilman Annan, accepting the contract for the furnishing of deep well pumps for Pump Station No. 1 and Pump Station No. 17, authorizing payment of amounts due under the contract, and authorizing the filing of Notice of Completion with the Stanislaus County Recorder, as recommended by the Director of Public Works, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

RESOLUTION AMENDING RES. NO. 10,290-N.S. CREATE POSITION OF TRAFFIC ENGINEER AND ESTABLISH SALARY

Councilman Annan introduced

RESOLUTION NO. 54-218

seconded by Councilman M. Adams, amending Resolution No. 10,290-N.S. establishing salary schedules, classes of positions and fixing the compensation of officers and employees in the city service to include under section I-Classified Service, the position of Traffic Engineer in Range Y, salary be established at \$800 per month, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

PROGRESS REPORT ON USE OF OLD JOHN MUIR SCHOOL BUILDING BY LOCAL ORGANIZATIONS

The City Manager reported that various local organizations (United Crusades Agencies, Young Men's Christian Association, Boy Scouts, Girl Scouts, and American Red Cross) interested in using the old John Muir School building, had formed a committee. A copy of the progress report of the committee, together with a proposed agreement to participate in the repair of the building, copies of which are on file in the City Clerk's office, were being sent to interested organizations to determine their space requirements. As soon as answers have been received, he stated, the committee will be in a position to make a specific proposal to the Council for the use of the building. The Council committee, composed of Councilmen R. Adams, Mellis and Annan, is continuing to work with the committee from the organizations, the City Manager stated.

Councilman Mellis stated that the organizations' committee understood that the repairs to the building were to be made at no cost to the city and that a nominal rent of \$1.00 was to be charged by the city. Prompt action by the organizations was also urged by the Council committee, he stated.

LETTER FROM CARLOS J. BADGER ON BEHALF OF EMPIRE SANITARY DISTRICT RE: CITY OF MODESTO PROVIDE SEWAGE NEEDS OF DISTRICT

A letter from Attorney Carlos J. Badger stating that "the Board of the Empire Sanitary District had asked him to write about the possibility of the City of Modesto providing for the needs of Empire and the area between Empire and the city, so far as sewage facilities are concerned and the possibility of Empire's being able to abandon its present disposal works."

The City Manager recommended that this request be referred to the Council Sewer Committee which would work with the city officials and report back as progress develops in the investigation.

Councilman Mellis moved, seconded by Councilman Annan, and it was unanimously carried that the request be referred to the City Manager who would contact the Council Sewer Committee and Director of Public Works.

HEARING ON PROPOSED INCREASE IN SALES TAX FROM ½% TO 1% WITH ADDED FUNDS TO BE USED FOR CAPITAL IMPROVEMENTS

This being the time set for the public hearing on the proposed increase in sales tax from one-half per cent to one per cent with the added funds to be used for capital improvements, Mayor Marks declared the hearing open at 8:00 P.M.

Mayor Marks read a statement, a copy of which is on file in the office of the City Clerk, giving the reasons for the proposal. He pointed out that up to the present time, the Council had not taken a stand but merely asked that it be placed on the agenda at this time so that a public hearing could be held. He stated that the city could do one of two things on the Forward Modesto Committee's report, 1) finance it, and fulfill it or 2) file it and forget it. He asked for comments from the audience.

J. A. Shorthill, furniture dealer, asked whether it would be necessary to charge the additional sales tax on deliveries out of town.

Mayor Marks replied that it was planned to continue the existing provisions of the ordinance with one-half per cent ear marked solely for capital improvements. The City Attorney explained that the existing ordinance provided for the charging of sales tax on all deliveries out of the city except those where the merchandise is to be used solely in the business of the purchaser and when the purchaser has signed a exemption certificate to this effect.

Mr. Shorthill pointed out that the merchants had been "working hard to get the people to trade in Modesto and to bring in surrounding territory--Laloma shopping center to get them into our tax structure." He asked if this proposed increase in the sales tax would drive business men outside the city to avoid this tax.

Mayor Marks pointed out that the only remaining shopping district outside the city was the South Modesto District and that the possibility of new major shopping districts being developed outside the city would be remote. He cited Stockton as an example of a city which had adopted the 1% sales tax which had worked out successfully.

Councilman Mellis stated that sales had increased in his store in Stockton after the adoption of the increased sales tax.

Mayor Marks asked Mr. Shorthill if he could suggest any other means to finance the recommended capital improvements.

Mr. Shorthill asked whether this was the proper time to increase the tax program when everybody was trying to find ways to reduce taxes.

Mayor Marks pointed out "there is never a proper time to increase taxes. To answer your question, where it has been used it has worked out that this does not affect business adversely."

Bob Alford stated that any sales tax was an unfair tax. "The fact you have a one-half per cent sales tax now is discriminating enough but when you try to increase that to 1% it is even more discriminating. I basically object to the tax as it is not equitable," he stated. He stated that he did not wish to argue that the city did not need the money for capital improvement but asked that the Council seriously consider before increasing the sale tax because he considered it to be an inequitable tax. He asked if the Council had rejected the idea of increasing the basic tax rate.

Mayor Marks stated that "as an individual I have. We are striving to get industry to locate in this community and we are getting it. We have a fairly low tax rate now and I do not want to see it go higher. Our job (Council's) is to furnish a community where its citizens can live together in serenity and satisfaction and to do that we must get industry to locate here."

Mr. Alford stated that the average man in the low income bracket was not interested in what would happen to him in 10-15 years but what was happening to him "right now."

Mayor Marks replied that this man needs schools, parks and recreation facilities for his children "right now."

The City Manager pointed out that the low income man would not be required to pay sales tax for the two important items of shelter and food.

The City Attorney listed the broad base and varied pattern of the tax structure for the city.

Fred Johnson, member of the Forward Modesto Committee, stated that he was in favor of the proposed increase in the sales tax as it would enable the people who were not directly within the community but who traded here and used the city's facilities, to pay their share. He offered two suggestions 1) that no change be made in the existing sales tax administration and that the proposed increase be ear-marked for capital improvement but that the ordinance provide that the funds could be used to retire the general bonded obligation bonds 2) that there be a limit placed on the amount which the Council could directly appropriate for any certain project and that over a certain amount i.e. \$50/100,000 be placed on a bond program so that the people could have a chance to vote on the proposal.

Bill Mitchell, member of the Forward Modesto Committee approved the proposed increase in the sales tax. He believed that it would be an incentive for annexation to the city.

Nels Betker representing the Modesto Men's Golf Club approved of the proposed increase in the sales tax which would enable the people living outside the community to assist in paying for facilities which they used, such as the golf course. He called attention to the overcrowded condition of the existing nine hole course and the urgent need for an 18 hole course.

Mayor Marks pointed out that the city needed an 18 hole course but that it should be considered along with other facilities which can be used by everybody. He suggested the following top priority projects which should be considered

- 1- City Hall
- 2- Fire Truck
- 3- Grader and tractor
- 4- Dennett Dam
- 5- Golf Course
- 6- Joint communication center
- 7- Swimming pool at Downey (jointly with schools)
- 8- Park improvements and other items submitted for consideration with budget
- 9- Street and drainage improvements
- 10- Bridge over Beard Brook

Phil Humphreys expressed himself "in favor of any means possible to provide facilities that are necessary and desirable with the qualification that utility projects be given first priority."

Pete Janopaul stated "I am in favor of the tax--we want a good city."

Mr. Shorthill was opposed to Mr. Johnson's suggestion that a special election be held on large projects, such as the city hall since he considered that the Council should consider the expense of a special election.

A general discussion was held on the suggestion of Mr. Johnson's regarding the special election and it was brought out the people of the city elected the Council to represent them and that if the capital improvement program was not being conducted in an acceptable manner that the people had the right to elect Councilmen who would carry out the program in accordance with their wishes; that the Council acted only in public session with representatives of the press present and that the fullest kind of publicity was given prior to consideration of any project or problem.

The City Manager pointed out that the state law permitted the money collected to be ear-marked for capital improvements and the money could not

be used for any other purpose except by the vote of the people. This would apply only to funds collected but this does not mean that the ordinance increasing the tax could not be rescinded and the tax removed---any Council can act on this tax measure in due process---this would not mean any commitment to continue this tax.

Jack Crose asked if the grader, tractor and fire truck, listed in priority projects earlier by the Mayor would qualify under the terms of this ordinance.

Councilman Mellis pointed out that the money (\$50,000) previously budgeted for a city hall, could be used in the purchase of the equipment (grader-tractor-fire truck)

Councilman M. Adams questioned whether legally equipment could be considered capital improvement.

Councilman Annan expressed disapproval of using the funds for the purchase of equipment. He stated that it was his understanding that the money was to be used for projects, such as the city hall, golf course, parks and swimming pools.

It was pointed out that the purchase of this type of equipment (grader and tractor) which would be needed in the street and drainage improvement program recommended by the Forward Modesto Committee, could be justified.

The City Attorney pointed out that the ordinance could specify specific projects on which the money could be expended or it would be possible to specify the items in the Forward Modesto Committee report.

It was agreed by the Council that the ordinance should not specify the exact projects and that each Council, in open public session should determine the projects in the light of changing conditions.

Councilman R. Adams pointed out that with the expanded street program which was being conducted it might be possible in the future for the Council to plan, as a long range economy, to purchase additional capital improvement equipment which would be a savings to the tax payers. He stated, "The Council should have that prerogative of establishing in their minds what things are most important to the city's welfare."

Mayor Marks stated that it was his opinion, "this community will have a good council and they should be left free to carry forward a capital improvement program."

Mr. Carrol Fulkerth asked whether the Council would consider increasing the sales tax to one and one-quarter per cent with the provision that the extra one-quarter per cent would be used for street improvement alone.

The City Manager pointed out that the committee had recommended that the street improvement program be conducted on an improvement district basis with the city paying 20 per cent of the paving costs. He pointed out that with this special tax, the people who had previously paid for their own paved streets in improvement districts would be required to pay again for paved streets in areas which have not provided them.

It was agreed by the Council that the effective date of the increased tax would be October 1, 1954; and that the rate, on contracts, executed prior to this date, should be the rate in effect at the time of the execution of the contract. Mayor Marks declared the hearing closed.

Mayor Marks moved the introduction and passage to print of

ORDINANCE NO. 1136-N.S.

entitled: "AN ORDINANCE AMENDING SECTIONS 1, 2 AND 28 OF ORDINANCE NO. 1088-N.S.

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OF THE CITY OF MODESTO ENTITLED, "AN ORDINANCE ESTABLISHING AND LEVYING A SALES AND USE TAX ON RETAIL SALES OF TANGIBLE PERSONAL PROPERTY WITHIN THE CITY OF MODESTO, PROVIDING FOR PERMITS TO RETAILERS, PROVIDING FOR THE COLLECTION AND PAYMENT OF SUCH TAXES, AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS HEREOF" which motion being duly seconded by Councilman Annan, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

HEARING ON BUDGET FOR FISCAL YEAR 1954-55

Mayor Marks declared the hearing open on the budget for the city for the fiscal year 1954-55.

A general discussion was held on Schedule A (page I) which listed the capital projects needed but not included in the budget because of the limitation of funds.

Councilman Mellis moved, seconded by Councilman M. Adams, which was unanimously carried, that the preliminary budget be amended to provide for the purchase of the grader and tractor in amount \$27,000 and for the 1250 G.P.M. Pumper--Fire Department in amount \$22,5000 in lieu of the reserve for the City Hall, \$50,000 and that the reserve be adjusted accordingly.

Both Peter Janopaul and Phil Humphrey of the Forward Modesto Committee agreed that it was the recommendation of the committee that the physical facilities of the parks be brought up to standard and maintained in this manner for the benefit of the people in the community. It was brought out in the ensuing discussion that items one through six of the list could be left out of the budget and be considered with the other capital improvement projects after the funds would be available from the increased sales tax (January 1, 1955).

The City Manager suggested that an immediate appropriation be made for the preliminary development of the Thousand Oaks Park and the old John Muir School Park (items 5 and 6) to assure that no further delay would occur in the development of the parks. He suggested that the grading and paving of a portion of the Corporation Yard, as well as the parking shed and curb and gutters (items 7,8,9) be considered at a later time when the expanded program for the Corporation Yard is considered.

Councilman Annan moved, seconded by Councilman M. Adams, which was unanimously carried, that the preliminary budget be amended to provide for the allocation of \$2,000.00 for preliminary development of the old John Muir School Park and Thousand Oaks Park and that the general reserve be reduced in that amount.

A discussion was held on requests of various organizations for donations (listed under MUSIC AND PROMOTION). Councilman Mellis stated that he was opposed to allowing any increase over last years donations since the city was working on a tight budget. The request of the Modesto Retail Merchants Association for \$3000, which was an increase of \$125 over the 1953-54 budget allowance was discussed. Councilman Mellis asked Mr. Losher, representing the Association if any endeavor had been made to secure additional members since the city limits had been expanded and additional shopping centers had been annexed.

Mr. Losher assured the Council that the merchants had been invited to join the Association. He outlined the proposed yearly program of the Association which included various types of sales and the refurbishing of the street lights for Christmas decorations.

Councilman Annan spoke on behalf of the Modesto Band and suggested that consideration be given to increasing their usual donation from \$1200 to \$1500. Councilman Mellis suggested that since the band had only asked for \$1200 that it be left as is and he pointed out that the city had assisted in the cost of changing the insigna on the uniforms when the name had been changed from the Stanislaus Boy's Band to the Modesto Band.

Councilman Arata moved, seconded by Councilman Annan, that the allocation to the Modesto Retail Merchants Association be increased from \$2875 to \$3000 and that the general reserve be adjusted accordingly. Mayor Marks declared the motion carried. The Council asked Mr. Shorthill, President of the Association to convey back to the association the suggestion that merchants in the outlying shopping areas be contacted for membership so that the Council could deal with the association as representing all the retail merchants in the city.

Councilman Annan moved, seconded by Councilman M. Adams which was unanimously carried, that \$750 be set in special reserve for the Junior Chamber of Commerce and the General Reserve be adjusted accordingly.

The request of the Chamber of Commerce for donation of \$5,000 which represented an increase of \$1875 over the 1953-54 donation was discussed. Mr. Sid Losher spoke on behalf of the Chamber and pointed out that the money donated was used by the Chamber in a way that did more good for the community than any other money allocated by the city on a promotion program. He pointed out that the Chamber had been successful in obtaining industries to locate in the community, which meant additional revenue to the city in taxes.

Councilman Mellis pointed out that the appropriation had been constantly increased and he objected to using the tax payers money in this manner. He stated that it was the duty of the Chamber to recruit members from the merchants. Mayor Marks stated that the question to be considered by the Council was a) should the entire request of \$5,000 be allowed, b) a compromise amount allocated and c) whether any donation be granted.

Councilman Mellis moved that the same amount be allowed the Chamber as was allowed in the 1953-54 budget, which motion died for a lack of a second.

Councilman Annan pointed out that since the city had expanded, the operations of the Chamber were larger, expenses greater and that this should be considered in the amount donated.

Councilman R. Adams left the Council meeting at this time.

Councilman M. Adams moved, seconded by Councilman Annan, that an allocation of \$4,000 (increase of \$875) be made to the Chamber of Commerce and the General Reserve Fund be adjusted accordingly. Mayor Marks declared the motion carried.

Consideration was given to the request of the Fourth of July Committee for \$1,000, which represented an increase of \$250 over the 1953-54 budget. Councilman Mellis moved that \$500 be donated, which motion died for a lack of a second. Councilman Annan asked Mr. Losher and Mr. Shorthill to urge the merchants to increase their financial participation in the Fourth of July parade and activities. It was agreed by the Council that the appropriation should remain at \$750.00

Councilman Mellis moved, seconded by Councilman M. Adams, which was unanimously carried that the preliminary budget be adjusted as proposed in "exhibit A" on file in the City Clerk's office and entitled "Proposed Adjustments in preliminary budget as submitted", with the exception of items (rest rooms at Legion Park \$3000) and (City Manager-salaries-extra help for special assignments as needed).

At the request of the City Manager, Assistant City Manager Shelton gave a brief summary of the proposed salary adjustments. He pointed out that the proposed adjustment was not general in nature but would reflect the changes

resulting from the reclassification of positions which would be placed before the Council for consideration next week.

The City Manager pointed out that the total amount involved would be small and would not affect the adoption of the budget at this time, since the additional amount would be transferred from the General Reserve to the various departments. Mayor Marks declared the hearing closed.

Councilman Arata moved the adoption and passage to print of

ORDINANCE NO. 1135-N.S.

entitled: "AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF MODESTO FOR THE FISCAL YEAR ENDING JUNE 30, 1955, AND PROVIDING FOR CERTAIN TRANSFERS OF FUNDS", which motion being duly seconded by Councilman M. Adams was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

RESOLUTION CREATING A SERVICE DIVISION WORKING CAPITAL FUND

Councilman M. Adams introduced

RESOLUTION NO. 54-219

seconded by Councilman Annan, creating a service division working capital fund for the City of Modesto and authorizing the transfer of \$20,000 to said fund from the General Fund of the City, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

RESOLUTION INCREASING THE PURCHASING REVOLVING FUND

Councilman Annan introduced

RESOLUTION NO. 54-220

seconded by Councilman Arata, increasing the purchasing revolving fund of the City of Modesto from a fund of \$2500 to a fund of \$3500 and authorizing the transfer of the additional \$1000 from the General Fund of the City, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

ALLOW CLAIM OF \$600 TO MODESTO BAND

Councilman M. Adams introduced

RESOLUTION NO. 54-221

seconded by Councilman Annan, allowing claim of \$600 for 1954 summer concerts of the Modesto Band, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

DISCUSSION ON INCREASE RATE REQUEST BY MODESTO GARBAGE COMPANY

The City Manager stated that the request filed by the Modesto Garbage Company for an increase in rates, due to the increase in operating costs in hauling the garbage to the new site selected by the county, located 19 miles from the city limits, had been discussed with the Council Committee and county committee and a representative of the Modesto Garbage Company.

The Modesto Garbage Company, he stated, has estimated that the distance it is now required to haul the garbage, to be three times the distance formerly required when the city had its own dump. This extra distance had caused its payroll and operating costs to increase materially.

The City Manager stated that the figures in the reports furnished by the company on its operating costs and income, had been checked by the city's accountant and appeared to be correct. These reports had been reviewed with the county, he stated and it is believed that a better service could be given the community by the establishment of a twice a week pickup service.

It is proposed by the committee that consideration be given to this type of service throughout the summer month for a period of five months--beginning June 1, through October and once a week during the balance of the year (7 months). The suggested rate for this would be \$1.10 per month. Special reduced rates could be set for extra cans. He stated that it is the belief of the committees that there is no reasonable alternative and that the increase in the rates is necessary in view of the increased distance of hauling the garbage. He pointed out that there might be some obligation on the part of the city to go along with the use of the county dump for a period of one year (beginning from April, 1953). In the meantime, he stated, every endeavor should be made to provide an area closer to the city which would result in a reduction in the rates. "It should not be necessary to spend \$40,000 or \$50,000 each year from now on to haul the garbage that distance"

Councilman Mellis asked "how can we tell the people that we intend to increase their rate 50%?"

Mayor Marks questioned the obligation of the city to use the county dump.

Councilman Annan stated that he had advised the county committee that he would check further into the matter of whether the city had obligated itself to patronize the dump. He reminded the Council that in all the months of discussion on the subject that the city had relied upon the county to provide a place to dump garbage. He stated that he was of the opinion that the county did have a reason to feel that the city should patronize the dump for at least one year, after they had made the arrangements with the property owner for the site and an investment had been made in the site.

Mr. Borghello, speaking for the Modesto Garbage Company, stated for his company that if it could dump in close proximity to the city--at the present sewer farm--that it would not be necessary to increase the rate for the city. He pointed out that the city, by providing its own ground, would have an income of approximately \$20,000 a year.

A discussion was held on the state standards for the "fill and cover" method for handling garbage.

Mr. Borghello reviewed the endeavor of his company to purchase a site which would have been made available to everyone, which had resulted in failure due to lack of approval by the county of any site selected by the company. He pointed out that if his company had been able to find a site close enough that there would have been only a slight increase in rates although his company would have a heavy investment in the property.

Mayor Marks contended that the primary obligation of the Council was to the 32,000 people in the city, that it was the job of the Council to

find an area so that the people would not be required to pay any more money.

Councilman Mellis pointed out the possibility of the public "clamoring" for the city to go into the garbage business. "The people", he stated, "will not take the increased rates lying down."

Councilman Annan pointed out the immediate need for relief to the companies due to the increased costs in hauling the garbage to the present site.

The City Manager suggested that the city check with the county representatives before any action was taken.

Councilman Annan suggested that it be determined definitely whether a dumping area could be established at the sewer farm before any action was taken, whether it would impair the operation of the sewer plant and whether some adjustments would be necessary.

The City Manager stated that it should be possible to dispose of garbage in this area.

Mr. Annan asked Mr. Borghello whether his company could furnish twice a week pickup service during the winter months to those people who wanted this type of service and what the additional cost would be. Mr. Borghello stated that it would cost 60¢ a month extra, and that the service could be furnished.

Mayor Marks stated that with the satisfactory modern methods of handling garbage by the fill and cover method, that he could not consider any further delay in making arrangements for a closer site. He stated that his main concern was the \$50,000 that it would cost the citizens of the community each year for hauling the garbage to the distant county site. He asked Mr. Borghello how long it would take his company to establish a fill and cover system on the south 30 acres at the municipal airport. Mr. Borghello stated that it could be done in 48 hours.

Councilman Mellis suggested that a further study be made by the Council on the reports furnished by the company on its operating costs, etc.

Mr. Sanders, operator of a local garbage company, questioned the cooperation given by the city to the county in the selection of a site.

Mayor Marks and the City Manager reviewed the action taken by the city and assured Mr. Sanders that he had no basis to make such a statement.

Councilman Annan moved that the City Attorney be authorized to draw up an amendment to the ordinance to implement the new rates, which was seconded by Councilman M. Adams, after the following discussion had taken place.

Jack Crose asked what the proposed rate would be for the two can pickup during winter time (once a week only) and was advised that \$1.65 was proposed.

Mayor Marks offered a substitute motion, which died for a lack of a second, that the city proceed at once to activate a fill and cover area south of the airport and that the rate remain the same, and that the area later on be developed as a recreation area.

Mr. Borghello reminded the Council that his company had not had an increase in its rates since 1945. He intimated that he would leave it up to the Council if they considered that a fair minor adjustment was not due the company for the twice weekly pick-up service. Mayor Marks stated that this could be considered at a later time. Mr. Borghello pointed out that the city would also have additional income from the land.

The City Attorney pointed out that the city had discussed the matter of a site with the county for over a period of 18 months and it had laid the matter in the county's lap to find a dump site and that all during this time the city had not proposed that it had land available which could be considered.

A further discussion was held on the rates to be included in the proposed ordinance and it was agreed that the ordinance should be drawn to establish the rates at

\$1.10 per month for one can for twice a week pickup service during the period of five months beginning June 1 and ending October 30 and one week pick-up service during the balance of the year.

\$1.65 per month for two cans as per above

\$1.70 per month for twice a week (one can) pickup service during the balance of the year.

Mayor Marks declared the motion carried which had been introduced by Councilman Annan and seconded by Councilman M. Adams by a vote of 3 to 2.

Councilman Mellis stated that he had voted no because he wished to make a further study of the reports furnished by the Modesto Garbage Company.

Mayor Marks stated that the reason he had voted no was that "although he felt the Board of Supervisors had acted in the best possible faith, that the solution as far as the 32,000 people in the city was concerned, which the Council represent, had not been satisfactory.

RESOLUTION PROHIBITING PARKING ON PORTION OF YOSEMITE BOULEVARD

The City Manager reported that a request had been filed by Postmaster Moorehead to establish a no parking area except for the depositing of mail in a mail box on the sidewalk area in Block 2086 on Yosemite Boulevard and that the Police Department approved. Councilman Annan introduced

RESOLUTION NO. 54-222 .

seconded by Councilman Arata, prohibiting parking, except temporarily for the purpose of depositing mail in the mail box located on the adjoining sidewalk area beginning at a point on the North side of Yosemite Boulevard 47 feet Easterly of the Southwest corner of Block 2086, running easterly along the North side of Yosemite Boulevard a distance of 32 feet, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

AUTHORIZE CITY MANAGER TO ACCEPT MATCHING FUNDS FROM THE FEDERAL GOVERNMENT FOR PURCHASE OF POLICE EQUIPMENT IN CONNECTION WITH CIVIL DEFENSE PROGRAM

Commissioner Annan introduced

RESOLUTION NO. 54-223

seconded by Councilman M. Adams, authorizing the City Manager to accept on behalf of the city matching funds from the United State government, for purchase of police equipment in connection with the Civil Defense program, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

7-14-54 p.13

AUTHORIZE CITY MANAGER TO ACCEPT MATCHING FUNDS FROM THE FEDERAL GOVERNMENT  
FOR PURCHASE OF RADIO EQUIPMENT FOR THE FIRE DEPARTMENT

Commissioner Mellis introduced

RESOLUTION NO. 54-224

seconded by Councilman M. Adams, authorizing the City Manager to accept on behalf of the city matching funds from the United State Government for purchase of radio rquipment for the Fire Department in connection with the Civil Defense program, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

RESOLUTIONS RELATING TO IMPROVEMENT DISTRICT #2 (SEWERS AND LIGHTS IN NORTH  
CENTRAL ADDITION)

Councilman Mellis introduced

RESOLUTION NO. 825-S.P.

seconded by Councilman Arata, determining that the public convenience and necessity require the construction of sanitary sewer laterals and furnishing of street lighting materials, supplies, appliances and appurtenances in Improvement District No. 2, City of Modesto, Stanislaus County, California, describing said proposed improvement, setting the 4th day of August, 1954, at the hour of 4:05 P.M. in the Council Chambers at 14th and I Streets in the McHenry Library Building, as the time and place where protests can be heard, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

Councilman Arata introduced

RESOLUTION NO. 826-S.P.

seconded by Councilman Annan, directing the City Engineer to prepare plans and specifications for the construction of sanitary sewer laterals and for furnishing street lighting materials, supplies, appliances and appurtenances in Improvement District No. 2, and that the work and improvement shall be hereinafter designated and described as "Improvement District No. 2", which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

Councilman Arata introduced

RESOLUTION NO. 827-S.P.

seconded by Councilman Annan, approving and adopting the plans and specifications submitted this date by R. E. Fredricksen, City Engineer, for the improvements to be made in Improvement District No. 2, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Merrill

Councilman M. Adams introduced

RESOLUTION NO. 828-S.P.

RESOLUTION OF INTENTION NO. 242

seconded by Councilman Mellis, resolving that it is the intention of the Council to order the construction of sanitary sewer laterals and furnishing of street lighting materials, supplies, appliances and appurtenances in Improvement District No. 2, as set forth in the resolution, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

FURTHER CONSIDERATION OF ACTION ON OFFER OF DRYDEN TO DONATE LAND FOR 18 HOLE GOLF COURSE

A discussion was held on the possibility of entering into an agreement with William Bell for a preliminary plan on a proposed 18 hole golf course. It was brought out that it would be necessary to have this information before final consideration could be given to the offer of Horace Dryden to donate a portion of the land needed for the course. Councilman M. Adams introduced

RESOLUTION NO. 54-225

seconded by Councilman Annan, authorizing transfer of \$500 from the General Reserve Fund to be expended for a preliminary plan for an 18 hole golf course by William Bell, Architect, and authorizing the City Manager to execute an agreement with Mr. Bell for his services, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Merrill

REPORT BY CITY MANAGER ON COUNTY ALLOCATION FOR DENNETT DAM

The City Manager reported that the County of Stanislaus had allocated \$10,000 in its 1954-55 budget in the building of Dennett Dam and its engineering staff had been authorized to assist in this project.

ACCEPT PRELIMINARY SUMMARY REPORT FILED BY FORWARD MODESTO COMMITTEE

The Forward Modesto Committee filed a report which was a brief summary of the Committee's Report.

ACCEPT ANNUAL INVENTORY REPORT OF PROPERTY OF CITY

The City Manager filed two copies of the Inventory of Capital property, as of June 30, 1954, of the City of Modesto, as required by section 801 subsection 12 of the City Charter.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 12:45 A.M.

ATTEST:  REX E. GAILFUS, CITY CLERK

7-14-54 p.15

The Council of the City of Modesto met in regular session this date at 4:00 P.M. in the Council Chambers at 14th and I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: Arata

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

Invocation was given by Rev. Claude Neal of the First Baptist Church

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of June 23 and July 7, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM FRANK F. EHRENTHAL---ARCHITECT RE: OFFER SERVICES FOR PROPOSED NEW CITY HALL

A communication from Frank F. Ehrenthal, Architect, offering his services for the planning and design of the proposed new city hall was read and ordered filed.

#### DISCUSS PROPOSED NEW CITY HALL CONSTRUCTION

Councilman M. Adams urged prompt action in proceeding with a program for the ultimate construction of a new city hall. He suggested that a survey of possible architects be made in the near future.

City Manager Miller suggested that the Council make a tour of various cities where new city halls had been constructed.

Mayor Marks reported on a recent meeting with a representative from a business concern which built public buildings on the lease-purchase basis. He stated that he had asked the representative to return shortly to meet with the entire Council to discuss his proposition.

The City Manager was asked to submit a report on those who had expressed interest in planning the new City Hall.

#### REPORT ON USE OF OLD JOHN MUIR SCHOOL BUILDING

Mayor Marks reported that the only groups so far indicating continued interest in using the old John Muir School building were the Red Cross and Boy Scouts, that other "volunteers" had fallen by the wayside. It was agreed by the Council that prompt action should be given to the use of the building.

The City Manager stated that a further report on the result of the survey for use of the building would be submitted to the Council shortly.

#### ACCEPT BID OF STANDARD MATERIALS INC. ON CONSTRUCTION OF SANITARY SEWER ON COLDWELL AVENUE BETWEEN ALLEY IN BLOCK 803 AND TULLY AVENUE

The City Manager reported on the bids received for the construction of sanitary sewer on Coldwell Avenue, between alley in Block 803 and Tully Avenue which had been opened at 2:00 P.M. July 19, 1954. He stated that Director of Public Works Ray had recommended that the low bid of \$4,485, submitted by the Standard Materials, Inc., be accepted. Councilman Annan introduced

## RESOLUTION NO. 54-227

seconded by Councilman Merrill, accepting the bid of the Standard Materials, Inc. as it was the lowest bid submitted, authorizing the execution of an agreement for completion of the work by designated city officials, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Arata

REJECT BIDS ON CONSTRUCTION OF COMFORT STATIONS AT JUNIOR COLLEGE BALL PARK

The City Manager reported that the bids received for the construction of comfort stations at the Junior College Ball Park could not be cleared with the state without revision of the plan and recommended that the bids received be rejected. He stated that it was desirable to reconsider the method in as far as the contract with the school was concerned. Councilman M. Adams introduced

## RESOLUTION NO. 54-226

seconded by Councilman Annan, rejecting all bids received on the comfort station at the Junior College ball park, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

FINAL ADOPTION ORDINANCE NO. 1134-N.S. ESTABLISH PERSONNEL SYSTEM AND REPEALING ORDINANCE NO. 1031-N.S.

Ordinance No. 1134-N.S. entitled: "AN ORDINANCE OF THE CITY OF MODESTO ESTABLISHING A PERSONNEL SYSTEM AND REPEALING ORDINANCE NO. 1031-N.S.", having been heretofore introduced and ordered printed and published at the regular meeting of July 7, 1954, Councilman R. Adams moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

FINAL ADOPTION ORDINANCE NO. 1136-N.S. AMEND SALES TAX ORDINANCE NO. 1088-N.S. (INCREASE TO ONE PER CENT)

Ordinance No. 1136-N.S. entitled: "AN ORDINANCE AMENDING SECTIONS 1, 2 and 28 OF ORDINANCE NO. 1088-N.S. OF THE CITY OF MODESTO ENTITLED, "AN ORDINANCE ESTABLISHING AND LEVYING A SALES AND USE TAX ON RETAIL SALES OF TANGIBLE, PERSONAL PROPERTY WITHIN THE CITY OF MODESTO, PROVIDING FOR PERMITS TO RETAILERS, PROVIDING FOR THE COLLECTION AND PAYMENT OF SUCH TAXES, AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS HEREOF", having been heretofore introduced and ordered printed and published at the regular meeting of July 14, 1954, Mayor Marks moved, seconded by Councilman Annan, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

CONSIDER AMENDMENT TO ORDINANCE NO. 521-N.S. SETTING UP CHARGES FOR GARBAGE SERVICES

The City Manager reported that an ordinance had been prepared for Council consideration as directed, amending Ordinance No. 521-N.S. establishing increased garbage rates as discussed at the meeting last week. However, since that time, he stated, the Council Sewer Committee has given further consideration to the problem of the long distance haul to the present dump and determined that it would be feasible, if the Council wishes, to establish a sanitary fill and land reclamation project on a portion of the southwest corner of the sewer disposal ponding area. This area would work out satisfactory for a sanitary land fill operation on the basis that it would be a cut and cover operation to raise the land to a desirable grade. If the Council wishes to approve the use of the area, he stated, immediate action could be taken to start the operation, and a formal contract with the Modesto Garbage Company could be prepared later for Council approval. The City Manager reported that he had checked with the State Water Pollution Control Board office and they would check the area.

Mr. Ralph J. Black of the State Department of Public Health was introduced by the City Manager and brought out the following points:

- 1- That a sanitary land fill operation at the proposed site would be satisfactory from the standpoint of the State
- 2- That there would be no nuisance from rats, flies or odor if the garbage was properly covered
- 3- That other cities were successfully operating land fill areas closer to the residential area than this proposed site
- 4- The amount and method of coverage should be based on the ultimate use of the land
- 5- That the city's Department of Public Works could determine and supervise the coverage operation
- 6- That danger of spontaneous combustion would be minimized if the daily coverage was sufficiently deep and proper administration of the area was given.

It was agreed by the Council that no burning or salvaging of garbage for feeding purposes be allowed. The Mayor pointed out that this proposed plan would tie in with the proposed plan of the Tuolumne Park Association for a recreation area.

Councilman Merrill raised the question of the reaction of the residents in the immediate vicinity.

Mr. Borghello pointed out the necessity for the establishment of a burning area for brush which could not be covered satisfactory. It was agreed that the present discussion be confined to the sanitary fill matter and that consideration of a burning area for brush and trimmings be taken up at a later date.

Mayor Marks introduced

RESOLUTION NO. 54-236

seconded by Councilman M. Adams, authorizing the City Manager to proceed with the establishment of a facility in an area located at the southwest extremity of the present sewer farm for the purpose of a sanitary fill and reclamation area for the disposal of the garbage of the City of Modesto and authorizing the expenditure of a maximum of \$1000 for this purpose, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

7-21-54 p.3

APPROVE AND AUTHORIZE EXECUTION OF UTILITY EASEMENT AGREEMENT BETWEEN THE CITY AND MARIA CHIA (WEST TRUNK SEWER LINE)

The City Attorney presented for Council approval utility easement agreement between Maria Chia and the City in connection with the West Trunk Sewer line, which called for a payment to Mrs. Chia of \$3500 as severance damages. Councilman R. Adams introduced

RESOLUTION NO. 54-231

seconded by Councilman Mellis, approving said utility easement agreement, authorizing the execution by designated city officials, authorizing payment of \$3500 for severance damages, and directing the recording of agreement with the County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Mark  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

AUTHORIZE CITY ATTORNEY PREPARE ORDINANCE INCREASING LIMITS OF PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE FOR AMBULANCES OPERATING IN CITY

Pursuant to the request of Frank M. Hagen, that the limits of public liability and property damage insurance requirements for ambulance operators be increased of \$5/10 PL and 1000 PD. Director of Finance Lawrence gave a brief report on the present requirements as compared to other types of business such as housemovers and taxicab operators. He stated that all the presently licensed ambulance companies were already carrying a much larger limit of insurance than the ordinance required. He recommended that the ordinance be amended increasing the limits to \$25/50,000 public liability and \$5,000 property damage. It was moved by Councilman Mellis, seconded by Councilman R. Adams, and unanimously carried that the City Attorney be instructed to prepare an amendment to Ordinance 593-N.S. establishing the limits of insurance as recommended by the Director of Finance.

DISCUSSION OF MUNICIPAL CODE-MORATORIUM ON AMENDMENT TO ORDINANCE ESTABLISHED

The City Attorney reminded the Council that the preparation of the municipal code had been underway for sometime. He outlined the changes which were necessary to make to the code each time the Council adopted new ordinances or made amendments to ordinances. He suggested that in order to hasten the completion of the code except for emergency matters that a moratorium of 30-60 days be declared by the Council on the adoption or amendment of ordinance. It was agreed by the Council that such a moratorium of 60 days be established.

ACCEPT DONATION FROM JOHN C. FREEMONT DAD'S CLUB FOR RECREATION SUPERVISION FOR SUMMER PROGRAM AUTHORIZE DEPOSITING IN GENERAL FUND AND APPROPRIATION FOR EXPENDITURE

Don Oliver, member of the John C. Freemont Dad's Club outlined the summer recreation program being held at Freemont school. He stated that the club recognized that they should have city supervision by trained personnel and he presented a check for \$652.50 which was to be used in the program. Councilman R. Adams introduced

RESOLUTION NO. 54-228

seconded by Councilman M. Adams, accepting the donation of \$652.50 from the John C. Freemont Dad's Club, authorizing its deposit in the General Fund, and authorizing appropriation for expenditure for recreation supervision for the summer program, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Mark  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

Mayor Marks was authorized to write a letter of appreciation to the John C. Freemont Dad's Club.

RESOLUTION ADOPTING POSITION CLASSIFICATION PLAN

Assistant City Manager Shelton outlined the provisions of a proposed resolution adopting a position classification plan for the City of Modesto. Each job, in the city service except those of the City Manager, City Attorney and City Clerk has been classified as to "definition", "typical tasks", "Employment standards" and "desirable qualifications", he stated. August 1 is the proposed effective date of the resolution, he explained. Councilman Merrill introduced

RESOLUTION NO. 54-229

seconded by Councilman R. Adams, adopting a position classification plan for the City of Modesto which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

ADOPT RESOLUTION ESTABLISHING SALARY SCHEDULES AND FIXING THE COMPENSATION FOR CLASSES OF POSITIONS IN THE CITY SERVICE

Provisions of a proposed resolution establishing salary schedules and fixing the compensation for classes of positions in the city service were reviewed by Assistant City Manager Shelton. He stated that the proposed effective date of the scheduled salary rates and ranges was August 1. He pointed out that the proposed changes for this year were minor. It is proposed that the anniversary date of appointment be used when changing rates and ranges instead of the fiscal year basis as has been done in former years. The cost of implementing the proposed salary schedules is \$13,565, exclusive of retirement costs which has been estimated to be \$944.00, making a total cost of \$14,509.

The City Attorney pointed out that the total cost of implementing the salary schedules did not represent a general over-all increase but was selective to adjust inequities. Councilman M. Adams introduced

RESOLUTION NO. 54-230

seconded by Councilman Annan, adopting a position classification plan for the City of Modesto and establishing the effective date of the resolution as August 1, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

RESOLUTION APPROVING APPROPRIATION TRANSFERS

Councilman Annan introduced

RESOLUTION NO. 54-232

seconded by Councilman Mellis, authorizing appropriation transfer of \$14,216.00 from the General Reserve to Various Departments for salaries and wages, regular \$13,291.00 Miscellaneous Unclassified, Retirement Contributions \$925.00 (salary adjustments for the 1954-55 fiscal year approved by Council related to classification survey made by the Personnel Office), which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

Councilman Annan introduced

RESOLUTION NO. 54-233

seconded by Councilman R. Adams, authorizing appropriation transfer of \$293.00 from Library Reserve to Library, Salaries and Wages, regular \$274.00 and retirement contributions \$19.00 (salary adjustments for the 1954-55 fiscal year approved by Council, related to classification survey made by the Personnel Office); which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

EXPRESS APPRECIATION FOR SERVICES OF ASSISTANT CITY MANAGER BOB SHELTON

Mayor Marks expressed appreciation on behalf of the Council for the privilege of working, during the past three years, with Assistant City Manager Shelton who is leaving shortly to accept the position of Chief Administrative Officer with the City of Santa Barbara. He stated that "it was very refreshing to see a young man of Bob's ability and caliber going into governmental work."

Bob replied with the statement that one of the main reasons he was able to go on to his new job was due to his association with the Council and particularly City Manager Ross Miller.

He pointed out that Modesto has an outstanding reputation in California and throughout the United States, as a city where the government is progressive and is serving its community well. People are anxious to come to Modesto to work for the city. He credited this to a great extent to City Manager Miller, who, he stated, is one of the "top flight" managers to train under.

Councilman Mellis introduced

RESOLUTION NO. 54-234

seconded by Councilman R. Adams, commending Assistant City Manager Shelton for his outstanding work and wishing him success in his new job, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

Councilman R. Adams introduced

RESOLUTION NO. 54-235

seconded by Councilman Merrill, congratulating the Mayor and City Council of the City of Santa Barbara, for having appointed Bob Shelton as its Chief Administrative Officer, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

COMMEND ASSOCIATE ENGINEER PHIL JOHNSON

Councilman M. Adams called attention to the fact that Associate Engineer Phil Johnson was leaving the employ of the city to accept the position of City Engineer for the City of Redlands and moved the introduction of

## RESOLUTION NO. 54-238

seconded by Councilman Mellis, commending Phil Johnson for his excellent work and directing the city clerk to send a copy of this resolution to the City of Redlands, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Arata

AUTHORIZE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF PENTAVATE

Councilman Annan introduced

## RESOLUTION NO. 54-237

seconded by Councilman R. Adams, authorizing the City Manager to enter into a contract for the purchase of the pentavate needed for the summer season of 1954 at the sewer plant, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Arata

CITY MANAGER TO PREPARE STATEMENT ON STATUS OF SEWER DISPOSAL PLANT CONSTRUCTION

Councilman Mellis moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Manager be authorized to prepare a progress statement for the Council's information and publication giving 1) the current status of the sewer disposal plant, 2) the approximate amount remaining to be expended, and 3) approximately when the project will be completed.

MAYOR APPOINT COUNCIL COMMITTEE TO CONSIDER RIGHT OF WAY ACQUISITIONS FOR ALLEY AT MCHENRY VILLAGE MEDICAL CENTER

Mayor Marks appointed Councilmen R. Adams and Mellis as a committee to confer with the City Manager on the proposed right of way acquisitions for alley purposes at the McHenry Village Medical Center now under construction.

CONSIDER OFFER TO SELL PROPERTY ON COFFEE ROAD ADJOINING DOWNEY HIGH SCHOOL TO CITY BY JOE MINENI FOR PARK PURPOSES

Councilman Mellis reported that Joe Mineni owner of 10 acres adjoining the Downey High School on the south had offered to sell this land to the city for a park area for the price of \$26,000. He pointed out the need for park and recreational facilities in this area and the fact that it would adjoin the high school grounds where the construction of a swimming pool has been recommended by the Forward Modesto Committee. He outlined the financial terms for the purchase which would be agreeable to Mr. Mineni and which could be extended over a period of three years, with a low interest rate. It was agreed by the Council that an inspection tour of the property would be made by all the members.

CITY MANAGER PREPARE LIST OF PRIORITY PROJECTS FOR COUNCIL

The City Manager suggested, to which the Council concurred, that a

priority list of projects be prepared for Council consideration at an early date.

FRED CURTIS COMMEND COUNCIL ON ACTION ON SANITARY FILL AREA

Fred Curtis commended the Council action taken on a sanitary fill area for disposal of garbage.

CITY MANAGER INTRODUCE GUEST TO COUNCIL

The City Manager introduced Bill Masonheimer, Assistant to the City Manager of El Cerrito to the Council.

REPORT ON STATUS OF PLANS FOR LALOMA TRUNK SEWER LINE

Director of Public Works Ray stated that plans and specifications had been completed for that section of the LaLoma Trunk sewer line from Morton Blvd. up to the alley between Edgebrook Drive and Highland Drive. It will be necessary to construct a pump station and the logical location for this station is in the Thousand Oaks Park but due to certain restrictions placed upon the dedication of the park by the original donor, this would not be expressly authorized unless a signed agreement could be secured from the original donor waiving these restrictions. To date the city has been unable to secure this agreement, he stated and it is recommended that the call for bids be delayed until the location of the pumping station is decided. He pointed out that construction of the station in a different location would involve additional costs and would not serve the area as well.

REPORT BY COUNCIL COMMITTEE ON CITY'S LIABILITY INSURANCE

Councilman Mellis reported that the Phoenix Indemnity Company had expressed willingness to renew the comprehensive general liability policy for a term of one year, at the same rate. The company, he stated, was impressed with the safety program being conducted by the city and commended the City Manager, the Personnel Office, Director of Public Works and others connected with the program. Councilman Mellis pointed out that this ultimately resulted in a material savings to the city since the rate was based on experience and losses paid. The total amount paid out in claims for the last fiscal year had been approximately \$3,000.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman R. Adams and it was unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 6:30 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. in the Council Chambers at 14th and I Streets, as provided by Ordinance No. 1084-N. S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Absent: Councilmen: Merrill

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

A few moments of silent prayer were observed.

LETTER FROM CITY OF TURLOCK RE: COUNCIL PARTICIPATION IN PARADE DURING CENTENNIAL FAIR, AUGUST 14

A letter from R. H. Ward, City Administrator of the City of Turlock inviting members of the Council to participate in a parade to be held in connection with the Centennial Fair August 14th was read. The City Clerk was directed to check with the members at a later date.

LETTER FROM MODESTO IRRIGATION DISTRICT RE: ADVENT OF THE RETIREMENT OF ITS BONDED INDEBTEDNESS

A letter from the Modesto Irrigation District expressing appreciation for the city's congratulation on the advent of the retirement of its bonded indebtedness, was read and ordered filed.

LETTERS FROM CONGRESSMEN AND SENATORS RE: FEDERAL AIRPORT PROGRAM

Letters which had been received from Senators and Congressmen acknowledging receipt of the city's letters supporting the President's \$22 million dollars federal aid to Airport program were briefed by the City Manager and ordered filed in the office of the City Clerk.

LETTER FROM MICHAEL JOSEPH KING RE: CONSTRUCTION OF NEW CITY HALL

Mayor Marks reviewed the events which had transpired relating to the construction of a new City Hall which is one of the projects recommended by the Forward Modesto Committee. He pointed out that it had been estimated that it was costing the city annually approximately \$25,000 to operate in the present manner where many of the departments were scattered throughout the city. A Council Committee headed by Councilman Mellis, he stated, had investigated the use of the old John Muir School building as an interim city hall but had concluded that it would be inadequate. Each year for the past two years the Council has budgeted \$25,000 to be used for the building of the city hall. Many architects have offered their services during the past few years and Hugh Coddling has offered to build a city hall on a lease purchase agreement.

An offer from Michael Joseph King of Rolling Hills, California, to build for and lease to the city, a city hall on a 20 year basis at a yearly rental of \$1.35 per square foot based upon the gross square footage (estimated at 30,000 square feet) of the entire building with an option to purchase, was read by Mayor Marks.

In the discussion that followed, the following points were brought out  
That the project should be open to the public to submit bids to enable the city to obtain the lowest price;

That the city might not need credit for 20 years;

That the only lease-purchase arrangement agreeable would be one which could be terminated by purchase after a short period of years;

That the offer of Michael Joseph King was only one offer and that the city was open to any other offer which would give the lowest possible cost.

City Attorney Grimes pointed out that the report submitted by the Council Committee appointed to investigate the use of the old John Muir School Building for a City Hall had not officially been acted upon but was still pending before the Council.

Mayor Marks recommended that the report be placed on the agenda for the next meeting.

The City Manager stated that the the priority list on capital improvements which the Council had requested would be submitted to the Council soon, together with a list of the names of the architects who had offered their services to the city.

The City Attorney pointed out the importance of a carefully devised long range plan based on continuity to assure the success of the capital improvement program.

John Bomberger pointed out that the offer of Mr. King specified the completion time after the plans were completed only and did not take into account the time for completion of the plans which would be approximately 6-8 months.

HEARING ON APPEAL OF CLAUDE D. BENNETT FROM DECISION OF PLANNING COMMISSION TO DENY USE PERMIT TO OPERATE RADIO AND TELEVISION REPAIR SHOP AT 148 MELROSE AT 8:00 P.M.

Mayor Marks declared the hearing open on the appeal of Claude D. Bennett from the decision of the Modesto City Planning Commission denying him a use permit to conduct a radio and T.V. repair service in an accessory building on his premises at 148 Melrose.

The City Attorney reviewed the background of the case and the action taken by the Commission denying the permit. He pointed out that the basis for denial was that the proposed use of the property was not "incidental and secondary" to dwelling purposes since the applicant intended to transfer a full-time commercial use from a commercial zone to a residential zone. The City Attorney listed examples of the types of business which were permitted under a "home occupancy" as music teachers, baby sitting agencies, seamstress.

Mr. Bennett stated that he had a petition signed by 40 residents near his shop approving the operation at 148 Melrose; Mayor Marks requested that he file it with the City Clerk. He stated the reason he was moving from his former location in the commercial zone where he had been located for 5 years was that the landlord needed the property. Before purchasing the new location on Melrose Street, he stated, he had checked with city personnel who had expressed the opinion that he would be able to operate at this location. He asked the Council to refer to the telephone directory which listed a great many different types of business in residential districts.

The City Attorney pointed out that if a business had been established in a residential area prior to 1943, that it might continue under the present zoning ordinance. He pointed out that the basic point connected with this case was that the property is located in an R-1 district although it is across the alley from a C-1 zone and that across the alley to the rear is also zoned C-1-- that this was a case involving the "breakage and cleavage line" between the residential and commercial.

Councilman R. Adams suggested that the Council delay its decision until the members could inspect the location. He pointed out that the delay in adopting the new zoning ordinance was causing difficulties and that it was incumbent on the Council to take this into consideration whenever problems of this nature were presented.

Mr. Boh Cook of the Planning Office stated that under the proposed new zoning map Mr. Bennett's property would be zoned as R-3 and that the granting of the permit requested would not be in conformity with this proposed change.

The City Attorney pointed out that the question to be determined by the Council was whether the Planning Commission exercised wise judgment in this case when it decided that the type of business was not consistent with the requirements of the ordinance as far as a "home occupation" was concerned. It was moved by Councilman Arata, seconded by Councilman Mellis and unanimously carried that the hearing be continued until 4.30 P.M. August 4th to give the members an opportunity to inspect the property.

#### DISCUSSION OF IMPROVEMENT DISTRICT NO. 2 (SEWERS AND LIGHTS FOR NORTH CENTRAL ADDITION)

With the unanimous consent of the Council, the City Manager advised that he had received a number of inquiries in the last few days regarding the proposed improvement district #2, which called for installation of sewer laterals and street lights in the North Central District recently annexed to the city. He briefly reviewed the background of the formation of the district which was started after an indication from the property owners of their desire for these improvements. Since the adoption of the Resolution of Intention to do the work, by the Council on July 14, he stated, each property owner has been notified of the approximate cost, as well as the official date for the hearing of protests to the work which was established by this resolution, August 4, at 4:00 P.M. However, he stated, some of the people in this district have run into a number of problems, one being that although easements were provided in the subdivision, many structures, such as shrubs, trees, patio and barbecue facilities have been built over the easements, making it impossible to get through with sewers in the rear of the lots. In one area, he stated, Director of Public Works Ray called a meeting of the property owners and they agreed that they would be willing to bear the additional cost if the sewers were constructed in the street instead of the alley.

Shortly after the North Central Area was annexed, the City Manager stated, some of the property owners, badly in need of sewers, proceeded immediately under the provision of Ordinance No. 1070-N.S. to have them installed. They complied with the provisions of the ordinance and secured areas of one block or more which were contiguous to existing sewer trunk lines and paid the necessary fees. He pointed out that these cases were prior to the adoption of the Resolution of Intention by the Council.

Since the notification of the approximate costs under the district have been received by numerous property owners, the City Manager continued, they have contacted the city office and requested permission to sewer their property under the provisions of Ordinance No. 1070-N.S. and stated that they have collected the necessary fees and met the other requirements of the ordinance.

The City Attorney stated that another problem involved in this district which the Council should be thinking about was that some of the street lights had been previously installed around the boundary of the district and no costs assessed against the property owners at the time because the adjacent property was out of the city.

Some of the street lights are of the old style, hanging from the middle of the street and it is planned to install a more attractive modern style light, and the property owners will be assessed for these lights.

Mayor Marks pointed out that the Council "sits in this matter merely to provide the legal mechanics to get the improvement done. The people in the district are the ones who decide they want these improvements. It is the responsibility of the city to see that if a majority want them that they go in."

Mrs. Frank Graham complained that she was unable to secure definite information from the Public Works Department whether the property owners in her block could pay cash before August 4th and come in under the ordinance provisions. She stated that she had secured signatures from all the property owners in her block and also collected the fees required under this ordinance, and appealed to the Council whether she would be permitted to file the petition, and request that the property be removed from the improvement district boundaries. She protested that the property owners had no way of knowing by the notice sent to them that there was a dead line for the filing of petitions for sewer service under the ordinance. Not until the notices were actually being tacked on the poles in the district notifying the public that the date of August 4th had been set as the date for the hearing of protests were we aware that there was a dead line. "Just because some of the property owners in this district were familiar with the law," she stated, "that is no reason why they should have the advantage over us."

The City Attorney pointed out that there was a cost factor involved which should be considered by the Council before any decision was made (line in street instead of alley).

The City Manager pointed out there were two kinds of cases and that Mrs. Graham's problem was an easy one and this block (Block 740-741) (Brady, Mensinger to Roseburg) could be eliminated from the district. He pointed out that it was a good thing that this had come up and that the city had never been faced with a similar case in any other improvement district, and that in all of these districts there should be a cut-off date. Technically the cut-off date in this district was July 14. He pointed out that the Council could, as a matter of policy in the future, establish the cut-off date in various ways-- one way would be at the time the Resolution of Intention was adopted and every body could be advised prior to the hearing.

The City Attorney pointed out the cut-off date should be established before the adoption of the resolution ordering the work. He stated that in the Resolution of Intention passed on July 14, the Council established the boundaries of the district, set the date of August 4 at 4:05 P.M. for a hearing of protests, and announced the work to be performed. This, he stated, is a requirement of the 1911 Improvement Act. In order to remove any work it would require the adoption of another resolution amending the original Resolution of Intention. It would be necessary to have another hearing on the amended Resolution and a new publication of the district in order to comply with the law.

The Director of Public Works stated that there were certain sections where cash basis could be considered but the ordinance provided that it would have to be at least one block area and contiguous to an existing sewer line.

The City Manager pointed out that where tough problem arises is where the sewer line is being constructed in the street and extra costs are involved.

Mrs. George W. Flint stated that the property owners in blocks 6003 and 6055 (Marilyn Street, between Orangeburg and Roseburg) wished to have their property withdrawn from the district and sewer service furnished under Ordinance No. 1070-N.S. and that she had a petition and the cash to file with the proper city officials. She stated that they were not opposed to the formation of the district and only wished to be removed from the district because they wanted to have this service as provided by the ordinance. It was pointed out that this was one of the locations where the sewer line was proposed to be installed in the street because of the easements being built over.

Councilman Annan stated "considering that this petition might be granted, what assurance have we that we are not going to have a repetition of this thing in the costs of each one of these districts in the future.

It was agreed that ample notice would be given in the future to property owners to enable the area to collect cash if they desired, and notify the Department of Public Works they wish this service.

Director of Public Works asked for clarification of the cut-off date since his department had been censored by the property owners on this project. "I know in one case in particular the people tried to collect money on the cash basis and were unable to do so from some of the property owners in this particular district and they agreed to go in on the district basis. As soon as estimated assessment statements were sent out the same people who did not care to go in on a cash basis before now want to do so."

The Director of Public Works outlined the extra costs involved in an improvement district as compared to cost involved in furnishing sewer service under the ordinance.

Several of the property owners pointed out that they were unable to obtain the costs on all three methods of payment sufficiently soon enough from the Public Works, I.E. the cost under the ordinance, the cost under the improvement district after the work had been done and before the bonds were issued and the costs after the bonds had been issued.

Director of Public Works Ray pointed out that the costs under this district varied from the costs of other districts and that an effort had been made to estimate the costs on the safe side. The costs under the ordinance 1070-N.S. were established to cover the average cost of construction. The figure was a composite figure of the costs at the time of the adoption of the ordinance based on costs to the city for other constructions. He pointed out that the costs in this district were more due to the fact some of the lines would be in the street. If the city is to assume the extra cost, he pointed out that the city would lose money in this particular district.

Mayor Marks pointed out that what the city would lose in this particular district, it might be possible to make up in another district, which would average out over a period of years.

Mr. Fred Beyers asked whether petitions could be presented at the next Council meeting also.

Sherrill Halbert asked if the Council would act on each petition individually. He took exception to the fact that the property owners were not notified of the final date they could pay cash and have their property removed from the district and that sufficient information was not given to them. He insisted that all petitions be considered together.

The City Attorney pointed out the provisions of the ordinance which required that "in areas annexed to the city, where sewer laterals do not exist, the city will construct collection lateral lines to serve an area of one block or more upon the payment of the sewer lateral charges, provided that the area is not more than 250 feet from the nearest existing collection lateral or trunk line of adequate capacity." It will be necessary to consider this fact when considering the petitions, he stated.

It was brought out in the discussion that there were different circumstances which would have to be considered; that all petitions could not be lumped together, and that the Council should have all these facts before a satisfactory solution could be made.

Mr. Halbert asked if the Council would indicate its position tonight or whether it would wait until the formal hearing on August 4th. He expressed concern whether the people would approve the district at the formal hearing if the Council did not take a stand on this matter tonight.

The City Manager pointed out that the information given the property owners was all which was available at the time. He stressed the importance in the future of establishing a cut-off date so that everybody could be advised. He stated that it would be better for the Council to start all over again rather than permit an avoidable inequity to anyone.

Mr. Peter Ruffino stated it was his opinion that the people should be better informed of the facts.

Mr. Ray pointed out the areas on the map of the proposed district where it was proposed that laterals be constructed in the streets rather than the easements. He pointed out that the extra costs involved for the construction of the line in the street rather than the alley were thoroughly discussed with the property owners who attended previous meetings on this matter.

A further discussion was held on whether the whole district should be "junked" and proceedings started over on a different basis, after the property owners had had a chance to ask for service under the ordinance provisions. The City Attorney pointed out that the engineering costs, advertising costs would be lost and that it would be possible to proceed under the present proceedings even if it was necessary to delete a portion of the property. A general discussion was held on the boundaries to be established on certain blocks where the sewer line was in the street as well as in the alley.

Mayor Marks stated that "I can see no reason why we can't indicate our intention at this time that we will extend the final date so that these people can have the opportunity to pay cash. Councilman Mellis pointed out that the Council must consider the extra costs to the city.

The City Attorney asked for an expression on the length of time which would be required for payment by cash basis. Mayor Marks suggested that the date of August 25th be established, which date was approved by members of the audience. He pointed out that it could be indicated at the hearing on August 4th that it would be continued until August 25th. Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that funds will be accepted under ordinance No. 1070-N.S. for those who qualify under the provisions of section 10 thereof providing for installing sewers on a cash basis, until the Council meeting of August 25, 1954.

Director of Public Works asked for a clarification on the motion whether this indicated that there would be a continuation of the hearing set for August 4th and was advised that this was the case.

The Director of Public Works was directed to draw up the information which would be necessary to send out to the property owners advising them of this fact. It was agreed that the petitions which had already been circulated and money collected would be accepted by the City Clerk and placed in a trust fund.

Mayor Marks stated that "it just seems to me that in all fairness, the best way to handle the situation where easements have been built over, that the sewer line be built in the street, with the city to pay the difference in cost.

Director of Public Works Ray was asked to furnish the Council with the information as to the approximate cost to the city if this was done. Councilman R. Adams pointed out that if the city did build in the easement and were forced to remove the large trees, poles and structures and the one building which was built prior to the time of subdivision, that the cost would be excessive.

For the clarification of the property owners on Sycamore Avenue, Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried that the area bounded on the north by Orangeburg, south by Roseburg, east by Sycamore and west by easement between Sycamore and Marilyn Avenues running north and south, would be considered a block for the qualification for cash payment under Ordinance No. 1070-N.S.

At this time Mrs. N. J. Vacarro, 1315 Sycamore Avenue filed a petition together with checks from the property owners in this area asking to be withdrawn from the district and asking that they be furnished with sewer service under the terms of Ordinance No. 1070-N.S.

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The City Attorney pointed out that the hearing scheduled for hearing protests at 4:00 P.M. and 4:05 P.M., August 4th would still be held and that it would not be necessary for the property owners to file petitions protesting the formation of the district if they wished to be furnished sewer service under the provisions of Ordinance No. 1070-N.S.

AWARD BID FOR FURNISHING LAMPS FOR FISCAL YEAR 1954-55 TO WILLE ELECTRIC COMPANY

The City Manager reported that two bids received for the furnishing of lamps for the city for fiscal year 1954-55 were identical. The Council was advised that, the bids being equal, the charter required favorable consideration be given to the bid of Wille Electric Supply Company over the bid submitted by Industrial Electrical Company, since the latter company was not located in the city limits. Councilman R. Adams introduced

RESOLUTION NO. 54-243

seconded by Councilman M. Adams, accepting the bid of Wille Electric Supply Company for the furnishing of lamps for the city for the fiscal year 1954-55 and authorizing execution of the contract which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT BID OF THE STANDARD MATERIALS, INC. FOR SANITARY TRUNK SEWER ON GRANGER AVENUE BETWEEN McHENRY AVENUE AND HONEYSUCKLE DRIVE AND ROSEBURG AVENUE AT McHENRY AVENUE

The City Manager reported that bids for the sanitary trunk sewer on Granger Avenue between McHenry Avenue and Honeysuckle Drive and Roseburg Avenue at McHenry Avenue, had been opened on July 26, at 2:00 P.M. The low bid which was submitted by the Standard Materials, Inc. had contained a minor irregularity in addition which changed the bid from \$8,687.00 to \$8,587.20. It was recommended by the Director of Public Works that this bid be accepted as corrected.

Councilman M. Adams introduced

RESOLUTION NO. 54-239

seconded by Councilman Annan, accepting the bid of Standard Materials, Inc., of \$8,587.20 and waiving the minor irregularity, authorizing the execution of a contract for the completion of the work by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REQUEST OF SAMUEL D. JONES TO ASSIGN LEASE ON SHOP BUILDING AT AIRPORT TO NATHAN J. PROVINCE

A letter was read from Samuel D. Jones, operating the Modesto Aircraft Company, at the Municipal Airport, requesting permission to assign his lease on the shop building being completed to Nathan J. Province.

The City Manager suggested that the lease agreement be amended to include a recovery clause for the protection of both the city and Mr. Province. Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried, that the City Attorney be instructed to prepare the necessary documents implementing these changes, for Council consideration.

RATIFYING ACTION OF PLACING CITY'S GENERAL LIABILITY AND COMPENSATION INSURANCE AND AUTHORIZING PAYMENT OF CLAIMS

Upon recommendation of the City Manager, Councilman Mellis introduced

RESOLUTION NO. 54-244

seconded by Councilman Annan, ratifying the action of placing the city's comprehensive general liability insurance for the year ending June 28, 1955, with the Modesto Insurance Agents Association and authorizing payment of claim of \$8,713.91, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

Councilman Annan introduced

RESOLUTION NO. 54-245

seconded by Councilman Mellis, ratifying the action of placing compensation insurance for the year ending June 30, 1955, with the State Compensation Insurance Fund and authorizing payment of claim of \$11,608.82, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REQUEST OF AGNES J. CHANDLER FOR ADDITIONAL TAXI STAND ON J STREET NEAR TENTH (THIEL'S SHOE STORE)

A request of Mrs. Agnes J. Chandler for an additional taxicab stand on J Street at Tenth Street (Thiel's Shoe Store) was referred to the Chief of Police for investigation and report.

ACCEPT DEED FROM RAYMOND C. KELLY AND FERN KELLY (WIDEN RAMONA AVENUE)

Councilman R. Adams introduced

RESOLUTION NO. 54-242

seconded by Councilman Annan, accepting grant deed from Raymond C. Kelly and Fern Kelly on a portion of lots 18, 19, and 20 of the Tatum Tract to be used for widening of Ramona Avenue, and authorizing the recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

AUTHORIZE CITY ATTORNEY START LEGAL ACTION AGAINST KADOTA CREEK COMPANY ON DELINQUENT WATER AND SEWER SERVICE BILLS

Upon recommendation of the City Manager, Councilman Arata moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Attorney be authorized to take the necessary legal action to collect unpaid water and sewer service charges from the Kadota Creek Company.

REPORT ON STATUS OF SEWAGE DISPOSAL IMPROVEMENT PROGRAM

The City Manager filed a report on the status of the sewage disposal projects, a copy of which is on file in the office of the City Clerk.

REPORT ON ANALYSIS OF PROPOSED ALLEY WIDTH AT McHENRY VILLAGE MEDICAL CENTER

The City Manager reported on discussion with members of the Council Committee with representatives of the McHenry Village Medical Center regarding the proposed alley width. The plans for the center call for a parking area in front of the building and a proposed 20 foot alley which would not comply with the standard established by subdivision Ordinance No. 1041-N.S.

The northern part of the property has not been developed and the owners of the center have agreed that when it is developed that it will be set back similar to the medical center so that a 30 foot alley would not be needed. The Council concurred in this suggestion and directed the City Manager to have prepared the necessary documents on that basis and present later for Council approval.

CITY MANAGER INTRODUCE DOUGLAS CARMODY, TRAFFIC ENGINEER TO COUNCIL

The City Manager introduced Douglas Carmody, newly appointed Traffic Engineer. Mr. Carmody, he stated, is already working on a report to be submitted to the Senate Interim Committee on Highways, Streets and Bridges; on "Inventory of Critical Deficiencies of City Streets". The first portion of this report must be submitted by August 1st and the remaining portion by September 4, 1954.

Mr. Carmody briefly reviewed the state legislation relating to the gas tax. He pointed out that the counties had already assembled data to submit to the Senate Interim Committee and that it behoved the city to assemble information, such as traffic counts, etc., which would stand up under the scrutiny of the consulting firm which had been employed by the state to study the reports submitted by the cities.

He suggested the following traffic improvements:

- 1- Securing of approval by the state for the painting of traffic directional stripes at the intersection of Kansas and 99 Highway.
- 2- The painting of a center stripe on College Avenue.
- 3- The placing of beads on all traffic markings so that they would be visible at night. He estimated this would cost approximately \$250 annually.
- 4- The relocation of traffic signals at 9-H Streets and 9-L Streets where they could be observed easier.
- 5- Drafting of a model traffic ordinance which would define all the functions such as through streets, passenger loading zones, etc.

Members of the Council pointed out various other spots throughout the city where traffic conditions were in need of improvement:

- 1- Santa Cruz and Yosemite Boulevard
- 2- Intersection of McHenry Avenue at Orangeburg (possibility of installing traffic signal at this intersection or the installation of a series of signals)
- 3- Intersection of D Street and 14th Street

CITY MANAGER REPORT ON APPOINTMENT OF CARL MILLAR AS ASSISTANT CITY MANAGER

The City Manager reported that Carl Millar had been appointed Assistant City Manager, and that he would be reporting for duty shortly.

RESOLUTION INCREASING SALARY OF CITY ATTORNEY

Councilman R. Adams introduced

## RESOLUTION NO. 54-240

seconded by Councilman M. Adams, increasing the salary of City Attorney Grimes, from \$800 to \$840 per month, effective August 1, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

RESOLUTION INCREASING SALARY OF CITY CLERK

Councilman Annan introduced

## RESOLUTION NO. 54-241

seconded by Councilman Arata, increasing the salary of City Clerk and Auditor Rex E. Gailfus, from \$530 to \$556.50, effective August 1, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

Mayor Marks stated that City Manager Miller had suggested that his salary not be increased. "There are other ways we can show our appreciation of the work the City Manager has been doing," he stated, "and that is by being sure he has sufficient help to work out our problems."

The City Manager stated that "for the records", he wished to state that "Mr. Miller is very happy."

He pointed out that there were many important matters before the Council which it had been unable to clear. He suggested that a list of these matters be prepared which would be checked by the Council to determine the order of priority and the best method of "getting on top". He commended the work of both City Attorney Grimes and City Clerk and Auditor Gailfus.

Councilman Annan suggested that the City Manager's office really needed an air conditioner.

GRANT PERMIT TO CITY CLERK & AUDITOR GAILFUS TO LEAVE FOR ANNUAL VACATION

Councilman R. Adams moved, seconded by Councilman M. Adams, which was unanimously carried, that the request of City Clerk and Auditor Gailfus for his annual vacation from August 2 through 13th, be approved.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Annan, which was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:45 P.M.

ATTEST:  REX 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. in the Council Chambers at 14th & I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The Acting City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. F. T. Zellmer of the Free Methodist Church.

HEARING ON IMPROVEMENT DISTRICT NO. 2 (OBJECTIONS TO PROPOSED WORK)

Mayor Pro Tempore Merrill declared the hearing open for any person having any objections to the proposed work or improvements or to the proposed boundaries of the Improvement District #2.

The City Manager gave a brief resume of the informal discussion held at the Council meeting of July 28 which resulted in the adoption of a motion by the Council that funds would be accepted from the property owners in the district who qualified under the provisions of Ordinance No. 1070-N.S., until August 25th.

Mayor Pro Tempore Merrill asked the Clerk if any protests had been filed.

City Attorney Grimes suggested that the protests received by the clerk be referred to the staff in the Public Works Department for tabulation and study with the individuals involved. He suggested that oral protests be requested at this time.

The City Manager at this point reviewed the background of the formation of the district and pointed out that the property owners would have the opportunity to present their problems to the staff and to the Council until the final date of August 25th. He also pointed out that the city merely acts as an agent in the improvement district and the procedure is established by state law.

Councilman R. Adams stated that it would appear to him that originally Ordinance No. 1070-N.S. had been intended for the extension of lateral lines for a short distance and not for a large improvement district such as proposed. However, he stated, the Council at its last meeting indicated that although it would cost the city materially more if the entire area was sewered under the provisions of Ordinance 1070-N.S., that since the ordinance was still in effect, the property owners were entitled to sewer service under its provisions if their property met the requirements.

Mayor Marks and Councilman Annan arrived at the Council meeting at this time.

Mr. Pete Ruffino expressed the opinion that everybody should be entitled to be treated alike, and pay the same type of fee for the service.

The City Attorney pointed out that this was not the matter under consideration, that as long as Ordinance No. 1070-N.S. was in effect and property owners met the requirements of the ordinance, service would be granted under its provisions. The only question is the cut-off date, because technically it was July 14, at the time the resolution of intention to do the work was adopted and the district formed. This time, however, he stated, was extended by the Council until August 25.

Mayor Marks stated the city accepted the responsibility for not advising the property owners of this cut-off date and had given the property owners this extension to clarify the situation.

D. A. Crane, 1000 Hackberry Avenue, stated that all the property owners in the 9 hundred and 10 hundred block on Hackberry had agreed to pay cash and ask for service under the provisions of Ordinance No. 1070-N.S. However, he continued, they have been advised that this area will be served by the trunk line on Roseburg and Virginia Avenues, which will mean that our property is not contiguous to the sewer line. He questioned why these property owners should be penalized when a sewer line which was contiguous, was available on Enslin Avenue.

The City Manager pointed out that even if a sewer line was located near a certain area it did not always mean that service could be furnished since the grades may be wrong. He asked that the property owners check out this problem further with the City Engineer.

Elizabeth Jackel Celletti, 704 Roseburg, owner of lot 19 in block 739 (110' x 320.08') protested to paying for service on the area basis since only one house was located on the property.

The City Manager pointed out that the hearing on the assessment method would be held at a later date but if she wished to protest to the work and the boundaries that this was the time to do it.

George Arano, owner of lot 14 (100' x 310.08') in block 738 protested to the area basis of assessment also. He stated that the rear of his property could not be served from the street and would be necessary for him to pay twice if the rear of his property was at a future date served with sewer.

The City Manager pointed out that the problem involved in both of these cases was that under the district the assessment was based on a maximum lot depth of 150 feet but that under the ordinance the entire area was used in computing the charge. He recommended that in fairness to all, that the computations on the district and the ordinance be the same. It was brought out in the discussion that this policy as it relates to districts had previously been adopted by the Council in Improvement District #1 in the Maze Court addition.

Councilman R. Adams recommended the 150 foot depth be approved.

When the City Attorney again pointed out that the matter of assessment was not the matter under consideration at the hearing and that it would be considered later, both Mr. Arano and Mrs. Celletti stated that they could not make up their mind whether they wanted to protest until this matter of depth had been decided. Mrs. Celletti stated at this time that she wished to file a protest against the proposed work.

Councilman R. Adams moved, seconded by Councilman Merrill, which was unanimously carried, that the policy of the Council would be that the depth of the lots be limited to 150 feet to those who qualified under Ordinance No. 1070-N.S.

George Arano at this time agreed to withdraw his written protest to the work to be done in the district.

A property owner on McHenry Avenue at Griswold Avenue asked why he had received a notice of assessment on lights. He was asked to clear through the Department of Public Works.

A property owner on McHenry Avenue asked if the property owners across McHenry (outside the city limits) would be benefited by the sewer to be installed on the west side, when the property was annexed to the city later on. He was advised that these property owners on the east would be required to pay the same charges as those on the west.

Questions asked by James Brady on location of sewer lines and methods of payment were cleared to his satisfaction by the Director of Public Works.

Carlos Badger reported that he had previously filed a petition signed by 11 of the 16 residents on the west side of Sycamore between Roseburg and Orangeburg requesting that the sewers be placed in the easement instead of the street as proposed in the plan for the improvement district. This petition was read by the City Manager and placed on file in the office of the City Clerk. Councilman Mellis recommended that the engineering staff make a report on this request to the Council later.

The City Attorney pointed out that the location of the sewer in the street was a part of the plans and specifications previously approved by the Council and was involved in this hearing. He stated that the Council had the authority to modify the plans and change the location of the sewer line.

Director of Public Works Ray pointed out that the petition was not cleared as yet since the necessary cash payments were not submitted when it was filed.

It was agreed that the petition should be checked by the engineering staff and a report submitted later.

Councilman Merrill moved, seconded by Councilman Annan and it was unanimously carried that the hearing of protests on the work and boundaries in the Improvement District No. 2, be adjourned to 8:00 P.M., August 25, 1954.

It was agreed by the Council that policy matters and technical matters which could not be cleared with the administrative staff relating to the Improvement District #2 would be considered by the Council at 8:00 P.M., August 11 and 4:30 P.M., August 18.

**MAYOR MARKS DECLARE HEARING OPEN ON PUBLIC CONVENIENCE AND NECESSITY OF THE CONSTRUCTION PROPOSED IN THE IMPROVEMENT DISTRICT NO. 2 WITHOUT COMPLIANCE WITH THE SPECIAL ASSESSMENT INVESTIGATION LIMITATION AND MAJORITY PROTEST ACT OF 1931**

Mayor Marks declared the hearing open on the public convenience and necessity of the construction of the proposed improvements in Improvement District No. 2 in accordance with the provisions of Improvement Act of 1911 and without compliance with the Special Assessment Investigation Limitation and Majority Protest Act of 1931.

The City Attorney pointed out that since this hearing could not be held until the hearing on the work and boundaries had been resolved, he recommended the adoption of a motion deferring the hearing until 8:05 on August 25. Councilman R. Adams moved, seconded by Councilman M. Adams, and it was unanimously carried, that this hearing be continued until 8:05 P.M. August 25, 1954.

**CONTINUATION OF HEARING ON APPEAL OF CLAUDE D. BENNETT FROM THE DECISION OF THE PLANNING COMMISSION DENYING PERMIT TO CONDUCT A RADIO AND T. V. REPAIR SERVICE IN AN ACCESSORY BUILDING AT 148 MELROSE AVENUE**

Mayor Marks declared the hearing reopened on the appeal of Claude D. Bennett from the decision of the Modesto City Planning Commission denying him a use permit to conduct a Radio and T.V. Repair Service in an accessory building on his premises at 148 Melrose Avenue.

A summary of the proceedings prior to the hearing was given by Bob Cook of the Planning staff, a copy of which is on file in the office of the City Clerk.

The City Attorney took exception to the statement in the report that it was the City Attorney's opinion that approval of Mr. Bennett's proposed use of his home could not legally be granted. He stated that it was a matter for the determination first by the Planning Commission and now by the Council as to whether the proposed use met the requirements of the ordinance for a home occupation. He stated, however, that in his opinion it did not meet these requirements.

Mayor Marks reported that he had inspected the building and that he believed the only valid way to permit this operation in this location would be to rezone the property from residential to commercial, since the proposed use of the property was not incidental and secondary to its use for dwelling purposes.

The City Manager pointed out that the matter of rezoning was not the question at issue and he pointed out the implication of zoning of this single piece of property as it would set a precedent for the zoning of adjoining property.

Mr. Bennett reviewed his endeavor to secure approval by the Planning office of the property for his proposed operation and again called attention to the fact that many other individuals were operating in the residential zone. The City Attorney pointed out that such uses might be legal non-conforming uses.

Councilman Arata recommended that the matter be referred back to the Planning Commission by the Council with no recommendation. Councilman M. Adams pointed out the inadvisability of this manner of handling the appeal since nothing had been changed in the ordinance and this was a matter of zoning.

Councilman R. Adams stated as long as he remained on the Council that he would not take for granted the criteria on this type of case. Each case has its merits and should be considered separately and there are constant changes in locations and types of business. He urged that there should be some flexibility in the zoning ordinance. He pointed out that the human side of these various cases should be considered.

Councilman Annan reported that he had inspected the location and had come to the conclusion that the matter should be referred back to the Commission but since attending this meeting and hearing the discussion that he had changed his ideas and that he believed it was up to the Council to determine whether this is a "home occupation".

The City Attorney stated that the question before the Council was whether to sustain or overrule the decision of the Planning Commission.

The City Manager pointed out to Mr. Bennett that it was not the staff who made the decisions but the Council. He stated that he did not wish to have the staff placed in a position where a person could say "I did it because the staff man told me this or that---they cannot decide these issues, it is up to the Council."

Councilman Annan questioned how long Mr. Bennett would have to remove his business location if he was not granted a use permit. He pointed out the difficulty involved in closing up an established place of business in a short time. He asked if Mr. Bennett could be allowed to operate until his petition for rezoning was resolved by the Commission.

The City Attorney pointed out the inadvisability of the Council allowing itself to get into the position where it authorizes a person to do anything which an ordinance prohibits.

Councilman M. Adams stated that after first visiting Mr. Bennett's shop that he had been of the opinion that it was a logical location for his operations but after reading the Planning Commission Report and study that he had taken another view of the situation and that he felt that it was a C-1 business and against the ordinance. It should be very clear cut just what the Council's decision should be.

To a suggestion from Mr. Bennett that his case be considered as a hardship case as defined by Ordinance No. 700-N.S., the City Attorney pointed out that this related to variances and not use permits.

Councilman Mellis recommended that the Council had a duty to the Planning Commission to sustain its decisions if supported by the evidence and that

it was the Commission's duty to analysis each individual case on its merits. The arguments presented by Mr. Bennett, did not prove that this would be incidental or secondary he stated and it is evidently a full time commercial operation in a residential zone. He recommended that the appeal be denied and suggested that Mr. Bennett could file a petition with the Commission for the rezoning of his property for C-1 use.

Councilman M. Adams moved, seconded by Councilman Annan that the appeal from the decision of the Planning Commission be denied. The Mayor declared the motion carried after the following roll call:

Ayes: Councilmen: M. Adams, Annan, Mellis and Mayor Marks  
Noes: Councilmen: R. Adams, Arata, and Merrill

Mr. Bennett asked how long he could continue operations at 148 Melrose Avenue. After a general discussion it was agreed that he should be given a reasonable period of time to close up his business and move to a new location.

Councilman Annan moved, seconded by Councilman Mellis that the hearing be closed. It was unanimously carried.

Councilman Annan left the Council meeting at this time.

GRANT REQUEST OF JOANN'S TAXICAB CO. FOR ADDITIONAL PARKING SPACE ON J STREET AT 10TH STREET

A report from Police Chief Neel recommending that the request of Mrs. Agnes J. Chandler, doing business as Joann's Taxi, for an additional taxi stand on the southwest corner of J Street at 10th Street (Thiel's Shoe Store), be granted, was read by the City Manager. He stated that the adjoining property owners and tenants had approved the request. Councilman Arata introduced

RESOLUTION NO. 54-246

seconded by Councilman M. Adams approving the request of Mrs. Chandler and authorizing the designation of the parking space

Beginning at a point on the south side of J St., 6½ feet West of the property line on the West side of 10th St. and running West on the south side of J Street a distance of 22 feet.

as a taxicab stand for the use of Joann's Taxicab Company and authorizing the Director of Public Works to make and post in accordance with the provisions of this resolution and the applicable laws of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

APPROVE ASSIGNMENT OF SUBLEASE FROM SAM JONES TO NATHAN J. PROVINCE ON AIRCRAFT MAINTENANCE BUILDING AT MUNICIPAL AIRPORT

City Attorney Grimes briefly summarized the provisions of an ordinance which he had prepared for Council consideration which would approve the assignment of the sub-lease agreement on the aircraft maintenance building being constructed at the airport from Sam Jones to Nathan J. Province. Councilman M. Adams moved the introduction and passage to print of

ORDINANCE NO. 1137-N.S.

entitled: "AN ORDINANCE APPROVING THE ASSIGNMENT OF A CERTAIN SUBLEASE AGREEMENT RELATING TO CERTAIN AIRPORT PROPERTY FROM SAM JONES TO NATHAN J. PROVINCE AND AUTHORIZING THE EXECUTION OF WRITTEN CONSENT IN CONNECTION THEREWITH", which motion being duly seconded by Councilman R. Adams, was upon roll call

carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

Councilman Annan returned to the meeting at this time.

LETTERS FROM MEMBERS OF CONGRESS RELATING TO AIRPORT PROGRAM

Additional letters received from Congressmen acknowledging receipt of the city's letter supporting the Presidents \$22 million dollars federal aid to airport program were briefed for the Council by Mayor Marks and ordered filed in the office of the City Clerk.

CITY MANAGER AUTHORIZED TO PROCEED WITH PREPARATION OF PLANS FOR CARVER ROAD SEWER

Director of Public Works Ray reported that Art Wilen had requested sewer service to a tract of land inside the city limits on Carver Road, immediately west of the College Garden Tract. He stated this would call for the construction of a trunk sewer line from Coldwell and 99 Highway to Roseburg at an approximate cost of \$25,000 to serve 41 lots. He stated that there was other possible subdivisions in that general area which would be served by this trunk sewer. Upon assurance that this development is going through, he stated, he would recommend that the city undertake construction of the trunk line.

Councilman Annan moved, seconded by Councilman M. Adams, and it was unanimously carried, that the City Manager be authorized to proceed with preparation of plans for the trunk sewer line from Coldwell and 99 Highway to Roseburg, to serve the land being subdivided by Art Wilen on the basis that the development of the land is assured by the subdivider.

AUTHORIZE CITY MANAGER TO PREPARE REPORT ON LAND ACQUISITION FOR RUNWAY AT AIRPORT AND ADVISE CIVIL AERONAUTICS ADMINISTRATION OF INTEREST IN PARTICIPATING IN FEDERAL AID AIRPORT PROGRAM

A telegram from J. S. Marriott, Regional Administrator, Fourth Region, Civil Aeronautics Administration was read, recommending that in view of the city's expressed interest in participating in the federal aid airport program that the C.A.A. District Airport Engineer be advised not later than August 7 regarding specific items of development which the city was prepared to undertake this fiscal year and for which federal assistance would be requested.

The City Manager suggested that the city "get on the list" by indicating to the C.A.A. informally an interest in acquiring land to extend the runway, since this was high on the list of criteria in the \$22 million dollar appropriation for federal aid airport program and the federal government would allow up to 50% of the cost. He estimated that the cost for acquiring the land would be approximately \$75/100,000. and that the purchase could be financed through the capital improvement fund.

Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager be authorized to prepare the report and indicate to the Civil Aeronautics Administration the city's interest in acquisition of more land for runway purpose at the Municipal airport.

LETTER FROM SENATOR KUCHEL RE: SOCIAL SECURITY BILL HR 9366

A letter was read which had been received from Senator Thomas H. Kuchel, acknowledging receipt of the city's letter relative to the provisions of the social security bill H.R. 9366, and ordered filed.

LETTER FROM R. G. DELAPPE RE: BUILDING OF CITY HALL

A letter from Russell Guerne DeLappe & Mitchell Van Bourg, Architects  
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relative to the construction of a proposed city hall was read and ordered filed.

### DISCUSSION ON CITY HALL CONSTRUCTION

The City Manager suggested that the Council Committee's report on the City Hall be redistributed to the Council members for their study so that consideration could be given to the action to be taken on the report at the next meeting. It was also agreed that the Council Committee, composed of Councilmen Mellis, R. Adams, and Annan present a recommendation for a specific method of procedure on the city hall project.

### LETTER FROM JOHN H. FEE, CHAIRMAN OF STANISLAUS COUNTY RECREATION COMMISSION

A letter from John H. Fee, Chairman of the Stanislaus County Recreation Commission regarding future grants of money to the various districts by the County, was read and ordered filed.

### REQUEST OF MODESTO THEATRES TO ADVERTISE SHOWS ON CITY STREETS

A request was filed by Ray Duddy, District Manager of the Modesto Theatres to use the city streets to advertise two shows which he was bringing to the city.

The City Attorney outlined the criteria provided in Ordinance No. 1111-N.S. for the granting of permits.

The following points were brought out in the general discussion:

- 1- That although theatres were large tax payers, permits could not be granted on that premise, since it would be impossible to refuse requests from all other tax payers.
- 2- That the provisions of Ordinance No. 1111-N.S. did not prohibit specifically the use of horses on the streets and the theatres had asked for permission to use a horse to advertise one of the coming shows.
- 3- Chief Neel pointed out that the number of horses and proposed time for the use of the city streets would be a consideration in the granting of the permit.

Mayor Marks moved, seconded by Councilman M. Adams, that the request be denied.

Councilman Mellis offered a substitute motion to allow the request with the provision that the route and time be approved and under the supervision of the Chief of Police, which was seconded by Councilman R. Adams. The vote on the substitute motion was as follows:

Ayes: Councilmen: R. Adams, Annan, Mellis  
 Noes: Councilmen: M. Adams, Arata, Merrill and Mayor Marks  
 Absent: Councilmen: None

Mayor Marks declared the substitute motion lost and put the original motion which carried as follows:

Ayes: Councilmen: M. Adams, Arata, Merrill and Mayor Marks  
 Noes: Councilmen: R. Adams, Annan, Mellis  
 Absent: None

### LETTER FROM ATTORNEY T. W. MARTZ RE: ENFORCEMENT OF PLUMBING ORDINANCE

A letter was read from T. W. Martz, attorney representing the Associated Plumbing Contractors of Stanislaus and Merced Counties, Inc. relative to the lack of enforcement of Ordinance No. 1100-N.S. pertaining to the installation of appliances in the city. He pointed out that compliance, by generally all parties with the exception of Sears, had resulted after a meeting of the Council

when a letter dated May 18, 1954 from the Association was considered. A list of installations made by this company during the month of June, without securing permits and by persons acting without certificates of competency issued by the Board of Plumber Examiners, was set forth in the letter. Immediate prosecution of these and other violations and complete enforcement of this ordinance was urged by Mr. Martz. Willingness to sign the necessary criminal complaints was expressed by his clients, he stated.

The City Manager stated that the statement in Mr. Martz' letter that no action had been taken in the cases cited was in error, that the Chief Building Inspector had called them to the attention of Sears and the permits had been obtained.

After a general discussion, it was agreed that the City Manager would ask the Public Works Department to furnish all the facts available to the City Attorney as a basis for a decision as to what action was to be taken.

APPROVE SPECIFICATIONS FOR MOTOR GRADER AUTHORIZE CALLING FOR BIDS

Specifications for the furnishing of a Motor Grader were outlined by the City Manager. Councilman M. Adams introduced

RESOLUTION NO. 54-251

seconded by Councilman Arata, approving the specifications and authorizing the calling for bids for a motor grader, said bids to be opened at 2:00 P.M. August 23, in the office of the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS ON CONSTRUCTION OF SANITARY SEWER LATERAL ON AMHERST AVENUE FROM ROSEBURG TO FORDHAM AVENUE

Plans and specifications for the construction of a sanitary sewer lateral on Amherst Avenue from Roseburg Avenue to Fordham Avenue were presented for Council approval by the Director of Public Works. Councilman Merrill introduced

RESOLUTION NO. 54-252

seconded by Councilman R. Adams, approving plans and specifications for above named project and authorizing the calling for bids, said bids to be opened in the City Clerk's office at 2:00 P.M. August 16, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE CONTRACT WITH STATE PERSONNEL BOARD FOR PERSONNEL SERVICES

The City Manager presented for Council consideration a proposed contract with the State Personnel Board for examining services for the fiscal year 1954-1955, which he estimated would cost the city the sum of about \$800.00. Councilman Annan introduced

RESOLUTION NO. 54-247

seconded by Councilman Arata, approving the contract with the State Personnel Board for examining services for the fiscal year 1954-55 and authorizing execution by designated officials, which resolution was regularly adopted by the

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following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

PETITION FOR ANNEXATION OF MINENI MANOR

A petition for annexation of the Mineni Manor to the city was filed by Merle Lancey, Joe Mineni, Jr., Mina Mineni and Retha Fukui. The City Manager reported that the County Boundary Commission had approved the boundaries of the tract. Councilman Arata introduced

RESOLUTION NO. 54-248

seconded by Councilman Merrill, referring the petition for annexation of the Mineni Manor Addition to the Modesto City Planning Commission for its report and recommendation, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Councilman R. Adams, left the Council meeting at this time.

AUTHORIZE CITY MANAGER TO CONTRACT FOR FIRE INSURANCE POLICIES ON CITY BUILDING

Councilman Merrill introduced

RESOLUTION NO. 54-253

seconded by Councilman M. Adams, authorizing the City Manager to contract for fire insurance policies covering city buildings and equipment with the Modesto Insurance Agents' Ass'n., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams

The City Manager commended the service being furnished the city on its insurance coverage by the Modesto Insurance Agent's Ass'n. and cited an example of a net savings to the city of \$400, which had resulted from the manner the Association had handled the coverage of the lighting system at the Modesto Reds Ball Field.

Councilman R. Adams returned to the meeting at this time.

AUTHORIZE PURCHASE OF DUPLICATING EQUIPMENT

The City Manager outlined the plans for the purchase of a new Multilith machine at an approximate cost of \$2470.00, which had been budgeted in this years budget. He stated that it was planned to retain the city's present machine, since only a \$150 trade-in allowance would be given on the new machine.

Councilman Annan introduced

RESOLUTION NO. 54-254

seconded by Councilman M. Adams, authorizing the purchase of a new multilith machine at an approximate cost to the city of \$2470 and that the old machine be retained by the city, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Mayor Marks asked the City Manager to check with him regarding the possibility of obtaining a used machine before the purchase of this equipment was made.

APPROPRIATION TRANSFER APPROVED COVERING INCREASE IN ATTORNEY'S AND CLERK'S SALARIES

Councilman M. Adams introduced

RESOLUTION NO. 54-249

seconded by Councilman Arata, authorizing appropriation transfer of \$732.00 from the General Reserve Fund to the City Attorney's (\$440.00) and City Clerk's (\$292.00) departments to cover additional amounts for salaries and wages due to increase granted these department heads by Council action of July 28, 1954 which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROPRIATION TRANSFER APPROVED COVERING CAPITAL OUTLAY GROUND IMPROVEMENTS AND BUILDING IMPROVEMENTS AT THE AIRPORT

Councilman Arata introduced

RESOLUTION NO. 54-250

seconded by Councilman R. Adams, approving appropriation transfer of \$547 from the Municipal Airport Gas Tax Reserve to Airport Division, Capital Outlay, Ground Improvements \$435.00 and Building Improvements \$112.00, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REPORT FILED ON INVESTMENTS AND SECURITIES

The City Manager summarized a report by Director of Finance Lawrence on investments and securities, which was ordered filed.

CITY MANAGER REPORT CESSATION OF OPERATION OF THE MODESTO TRANSIT CO.

The City Manager reported that he had been notified by Mr. Ed Osthues, operator of the Modesto Transit Company that the bus service would be discontinued as of midnight this date. The City Manager stated that he would start immediately to try to arrange some type of service for the outlying area and that a report would be submitted to the Council at a later date.

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman Merrill and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 7:15 P.M.

ATTEST:  ANNE M. COLLINS, ACTING CITY CLERK

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The Council of the City of Modesto met in regular session this date at 7:30 P.M. in the Council Chambers of the McHenry Public Library, 14th & I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The Acting City Clerk called the roll of the Council and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, and Mayor Pro Tempore Merrill  
Absent: Councilmen: Mellis and Mayor Marks

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

Invocation was given by Rev. J. V. Simmons, retired minister of the First Methodist Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of July 14 and 21, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM CITY OF YUBA CITY EXPRESSING APPRECIATION FOR THE SUPPORT GIVEN IN CAMPAIGN TO ATTRACT THE AIR ACADEMY TO CALIFORNIA

A letter from City of Yuba City, expressing appreciation for the support of the City of Modesto in the campaign to attract the Air Academy to California, was read and ordered filed.

#### LETTER FROM STATE DIVISION OF HIGHWAYS NOTIFYING AMOUNT OF PAYMENT TO BE MADE TO CITY ON GAS TAX ALLOCATION

A letter received from the State Division of Highways, District X notifying that \$20,528.03 would be paid to the City of Modesto as its apportionment of the July, 1954 quarterly payment of the gas tax allocation for expenditure on major city streets, was read and ordered filed.

#### REQUEST OF STANISLAUS COUNTY FOURTH OF JULY CELEBRATION COMMITTEE FOR DONATION OF \$750

A request was filed by the Stanislaus County Fourth of July Celebration Committee for payment of the \$750 budget appropriation. Councilman M. Adams moved, seconded by Councilman Arata allowing claim for \$750 and authorizing the issuance of warrant in payment, which was unanimously carried.

#### LETTER FROM STATE DEPARTMENT OF PUBLIC HEALTH RE: APPROPRIATION OF FEDERAL GRANT-IN-AID FUNDS TO CITY OF MODESTO

A letter from the State Department of Public Health notifying that an amount of \$1,067.00 of Federal grant-in-aid funds would be available to the City of Modesto for the 1954-55 fiscal year, was read and ordered filed.

#### OFFER OF 500 LION'S CLUB TO CONTINUE PROGRAM OF MARKING SAFETY SLOGANS ON CITY STREETS AND CURBS

An offer from the Lions 500 Club to continue its program of marking safety slogans on the curbs and streets at various intersections in the business district was discussed. Councilman Arata moved, seconded by Councilman R. Adams and it was unanimously carried that the offer of the club to continue this program be accepted and that equipment and manpower requested by the club be made available by the city at a time to be worked out by the club and the Traffic Engineer.

BULLETIN FROM THE PACIFIC GAS & ELECTRIC COMPANY RE: APPLICATION NO. 35256 TO THE PUBLIC UTILITIES COMMISSION FOR AN INCREASE IN RATE AND CHARGES FOR NATURAL GAS SERVICE

A bulletin from the Pacific Gas & Electric Company, with a copy attached of a notice of a public hearing to be held before the Public Utilities Commission of the State of California on the company's application No. 35256 for an order of the Commission authorizing applicant to increase its present rates and charges for natural gas service, was read. The hearing was scheduled for 10:00 A.M. Wednesday, August 25, 1954, in the Commission Courtroom, State Building, San Francisco.

Councilman R. Adams recommended that the City go on record as opposing the requested increase in rate by the Company. Councilman Annan suggested that additional information be secured for study before any action was taken by the Council. The City Clerk was directed to secure any additional information available for distribution to the members for their study.

LETTER FROM FRANK ANDREWS RE: BUILDING OF CITY HALL AND SALES TAX

A letter from Frank Andrew relating to the proposed building of the new city hall and the method of financing it with funds collected under the sales tax, was read and ordered filed.

FINAL ADOPTION OF ORDINANCE NO. 1137-N.S. APPROVING ASSIGNMENT OF SUBLEASE ON AIRCRAFT BUILDING FROM SAM JONES TO NATHAN J. PROVINCE

Ordinance No. 1137-N.S. entitled: "AN ORDINANCE APPROVING THE ASSIGNMENT OF A CERTAIN SUB-LEASE AGREEMENT RELATING TO CERTAIN AIRPORT PROPERTY FROM SAM JONES TO NATHAN J. PROVINCE AND AUTHORIZING THE EXECUTION OF WRITTEN CONSENT IN CONNECTION THEREWITH" having been heretofore introduced and ordered printed and published at the regular meeting of August 4, Councilman Annan moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
NOES: Councilmen: None  
ABSENT: Councilmen: Mellis and Mayor Marks

ACCEPT CONTRACT FOR PAINTING OF McHENRY PUBLIC LIBRARY FROM CONTRACTOR ANTHONY ZAMBELLI, AUTHORIZE FILING OF NOTICE OF COMPLETION AND MAKING OF PAYMENTS AS DUE

The City Manager reported that the contract for the painting of the McHenry Public Library had been completed by Anthony Zambelli in accordance with the contract. The Director of Public Works, he stated, has recommended that the work be accepted, notice of completion filed and payment of amounts due be approved. Councilman Annan introduced

RESOLUTION NO. 54-256

seconded by Councilman M. Adams, accepting the work as completed by Anthony Zambelli on the painting of the McHenry Public Library, authorizing the filing of notice of completion with the County Recorder by the City Clerk, and the making of payments due as provided by the contract, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
NOES: Councilmen: None  
ABSENT: Councilmen: Mellis and Mayor Marks

ACCEPT AIRCRAFT BUILDING FROM CODDING HOMES AND AUTHORIZE FILING OF NOTICE OF COMPLETION

City Engineer Fredricksen submitted a report that the construction of the aircraft building at the Municipal Airport had been completed by Coddling Homes in accordance with the terms of the agreement dated May 13, 1954, and conformed with the plans and specifications. He recommended that the building be accepted by the Council in accordance with the provisions of the agreement. Councilman Annan introduced

RESOLUTION NO. 54-257

seconded by Councilman R. Adams, accepting the aircraft building from Coddling Homes, as provided by agreement dated May 13, 1954, authorizing filing of notice of completion with the County Recorder, and filing of notice of acceptance of the building by the Council with Coddling Homes, as provided by terms of the aforesaid agreement, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayer Marks

ACCEPT PUMPING PLANT ON EMERALD AVENUE FROM CONTRACTOR STOLTE, INC. AUTHORIZE FILING OF NOTICE OF COMPLETION AND MAKING OF PAYMENTS AS DUE

The City Manager reported that the Director of Public Works had filed a statement that the construction of the Emerald Avenue Pumping Plant had been completed in accordance with the plans and specification and the agreement dated July 15, 1953. Due to the late delivery of pumps the company had been unable to complete its contract on the completion date specified in the contract, the City Manager stated and the Director of Public Works has recommended that the amount of \$349.19 be withheld as liquidated damages for inspection services, as provided by the contract. Councilman Arata introduced

RESOLUTION NO. 54-248

seconded by Councilman M. Adams, accepting the construction of the Emerald Avenue Pumping Plant from Stolte, Inc., authorizing the filing of Notice of Completion and making of payments as due and withholding as liquidated damages the amount of \$349.19, as recommended by the Director of Public Works, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayer Marks

RESOLUTION OF APPROPRIATION OF FUNDS FROM THE PUBLIC WORKS DEPARTMENT STREET DIVISION TO THE TRAFFIC ENGINEER DEPARTMENT

Upon the recommendation of the City Manager, Councilman Annan introduced

RESOLUTION NO. 54-259

seconded by Councilman Arata, approving appropriation transfer of \$7,722 from the Public Works Department, Street Division to the Traffic Engineering Department, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayer Marks

ACCEPT GRANT DEED FROM ELKS LODGE ON REALIGNMENT OF ALLEY IN BLOCK 728

The City Attorney stated that in order to complete the terms of the agreement between the Elks Lodge and the City, that it would be necessary to accept a grant deed from the Lodge for a portion of Block 728 for the realignment of the alley and to start proceedings for the abandoning and vacating of that portion of the alley in this block on which the new addition to its building encroached. Councilman M. Adams introduced

## RESOLUTION NO. 54-260

seconded by Councilman Arata, accepting the grant deed from the Modesto Lodge No. 1282 of the Benevolent and Protective Order of the Elks and authorizing its recording with the County Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayor Marks

Councilman Annan introduced

RESOLUTION NO. 829-S.P.  
RESOLUTION OF INTENTION NO. 243

seconded by Councilman R. Adams, declaring its intention to vacate and abandon a portion of the alley located in Block 728 of the City of Modesto, reserving from said vacation a permanent easement for sanitary sewers, establishing the 1st day of September, 1954, at 4:15 P.M. in the Council Chamber as the time and place for hearing of protests, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayor Marks

DISCUSSION ON IMPROVEMENT DISTRICT #2

The City Manager reported that during the past week additional petitions had been filed by property owners in the Improvement District #2 requesting sewer service under the provisions of Ordinance No. 1070-N.S., and that individuals and groups of property owners met with the engineering staff on particular problems and in most cases all the problems have been cleared.

He stated that he had been requested to bring before the Council for its decision the location of the sewer lines which will serve the property between Sycamore, Marilyn, Orangeburg, and Roseburg Avenues. Since the last meeting when a petition was filed by Carlos Badger asking that the line be placed in the easement, two petitions have been filed asking that the lines be placed in Sycamore Avenue and Marilyn Avenue instead of the easement. These petitions, he stated, are apparently signed by a majority of the property owners. Although in most cases the fee for connecting to the sewer would be cheaper if the line was placed in the easement, various objections have been filed by the property owners; the present alley of 7½ feet between Roseburg and Orangeburg Avenues is too narrow to be used, but in most cases, except at both ends of the block, there is an additional five foot easement, making a total of 12½ feet. If this extra five foot was available clear through the block, a one way alley could be created. At the present time there is located in the five foot easement, a water line, Pacific Gas & Electric gas line and Modesto Irrigation District poles in addition to a large number of stumps of trees, fences, etc.

After a personal inspection, the City Manager stated, he was convinced that the expense involved in installing the sewer in the easement would

be greater than placing it in the streets.

Unwillingness to dedicate additional land for the use of an alley had been indicated by a number of the property owners. During the construction of a sewer line, which is approximately eleven feet deep, the City Manager pointed out, it is necessary to remove a large amount of dirt which is usually placed along the ditch and this would create a problem in this instance.

Mrs. Walter Davies pointed out structures were built over the easements at both ends of the alley and that it would be necessary to condemn the property before the alley could be widened the full length of the block.

Mrs. Nick Vaccaro asked why it was necessary for the Council to delay its decision on this matter since a majority of the property owners had signed the two petitions.

Mayor Pro Tempore Merrill pointed out that final decisions would be made at the formal hearing which had been continued to August 25th. He suggested that the Council members, who had not personally inspected the property, do so before August 25th.

The City Attorney pointed out that the Council could indicate its intention in this matter at this time if it desired to do so.

Councilman Annan stated that after his investigation of the property it appeared impractical from a financial angle to construct the lateral in the alley. A mechanical digger could not be used and it would be necessary to do most of the work with pick and shovel, he stated. "I am in favor of these laterals going in at the least possible expense to the city and it is up to the Council to keep the welfare of the people in mind. This particular lateral should not go in the alley," he stated.

Mrs. George Flint asked whether the water company would object and pointed out that the water line had been laid at various angles which might present a problem when the sewer lateral was constructed.

It was pointed out that the water line belonged to the city and that it could be constructed in this manner but that it would be necessary to construct sewer lateral according to grade.

Councilman Arata stated he was opposed to putting the lateral in the alley since it would disrupt patios, swimming pools and cause other expenses and inconveniences to the property owners. He stated that he felt the Council should protect these owners.

Mrs. Walter R. Davies pointed out that the present percentage of owners who wished the lateral installed in the street agreed with the percentage on a similar petition which she had circulated in February and she believed that it was the consensus of opinion that the street lateral construction was most favored.

Mr. A. G. Volz, owner of lot 25, block 6003 stated that he had purchased his property prior to the subdivision of the area and that his 2 story garage was constructed on his own property and was not built on an easement. "I would not agree to move my garage since it would spoil my whole property and I would never agree to an alley running through this block. You would have to condemn my property," he stated.

Mrs. Ada Gross and Jack Edgar asked the Council for some assurance that it would not decide that their property did not meet the requirements of Ordinance No. 1070-N.S. at the formal hearing on August 25. They pointed out that they had done all the things they were advised to do by the city's engineering staff, their property was contiguous to a sewer line and 100% of the property owners had paid the cash payments specified which had been turned over to the city office. They requested that they be notified at this

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meeting just what their status was.

Director of Public Works Ray stated that there was no problems involved and that their property met all the requirements.

Councilman R. Adams reviewed the action taken by the Council at its meeting of August 4, indicating that the property owners had an opportunity to pay cash until August 25 providing their property met all the requirements of Ordinance No. 1070-N.S., and that at that time all those who had met the requirements would have their property removed from the assessment district.

#### REPORT ON PROCEDURE FOR BUILDING OF CITY HALL

Councilman Annan reported that the Council Committee on the proposed new city hall, had met and agreed that the city should proceed without any further delay to select an architect for the purpose of drawing up a design for a city hall. The employment of an architect was advocated by the Forward Modesto Committee, he stated, and point 4 of the recommendations of the Council Committee in its report of March 17 was "that an architect, experienced and qualified in the design of governmental buildings be retained immediately to prepare a master site plan for the future location of city buldings on the property (15th & H Sts.) and to submit the preliminary plans and estimates for the first unit of the new city hall."

The committee also agreed, he continued, that it would be one of the duties of the architect to look over the city from a geographical standpoint, with the object in mind of recommending a site. He pointed out that the 15th St. property would no doubt be the ultimate choice but due to the importance to the future of the city, it was agreed that a study should be made by the architect on a site and his recommendations be made to the Council.

Councilman R. Adams added that the committee had also agreed that it would be most desirable that an architect who had had considerable experience in governmental buildings and lots of experience in site selection be selected.

The City Manager read an excerpt from the report #102 dated July, 1952, of the Management Information Service relating to the selection of an architect. Copies of the report were distributed to the Council members for their study.

A discussion was held on the method of selecting architects and the powers of the Committee. Councilman M. Adams moved, seconded by Councilman Arata and it was unanimously carried, that the Council Committee be empowered to accumulate data on architectural firms along the lines outlined in the Management Information Service Report #102 and file a report with the Council on its recommendations on 2-3 firms who would meet the necessary qualification so that the Council could make the final decision on the architect.

It was agreed by the Council that action on the Committee's report of March 17, be delayed until Chairman Mellis was present.

#### REPORT ON BUS SERVICE

Traffic Engineer Carmody reported that at a meeting held last Friday, Willis Kleinenbroich, operator of the Modesto Motor Bus Service, had indicated that he was not interested in taking over the operation of the Modesto Transit Company bus routes which had been discontinued by Ed Osthues and Mary Maritzen on August 5th. Mr. Carmody stated that a temporary schedule had been established by the local taxicab companies to furnish service to certain outlying points on the bus route but that this had not met with public support. He stated that five persons had indicated interest in taking over the bus routes. At a recent meeting, he stated, Mr. Osthues had informed a representative from the Public Utilities Commission that he would probably start operations within a 10 day period or discontinue entirely. Mr. Osthues had contended at this meeting that his discontinuance of the routes was only temporary until major repairs could be made to his equipment which he estimated would cost

approximately \$1500. Mr. Carmody stated that Mr. Osthues had called him this evening and advised that he would probably start operations again before the 10 day period had expired.

At the recent meeting the representative from the Public Utilities Commission, the City Manager stated, had pointed out to Mr. Osthues that he had an obligation to the Commission under the permit issued and that the method he had used in stopping operations was not in accordance with the procedure provided in the permit. The City Manager stated that Mr. Osthues also had an obligation to the city according to the terms of Ordinance No. 306-N.S. to continue service.

City Attorney Grimes pointed out that Mr. Osthues contended that he had not stopped operations but that he did not have any equipment available to use. Ordinance No. 306-N.S., under which Mr. Osthues was granted a permit to operate, the City Attorney continued, provides that any violation by the grantee of any of the provisions of the permit shall be cause for the revocation or suspension by the Council and provides for a public hearing before the Council after the grantee has been given ten days notice.

The City Manager suggested, to which the Council concurred, that in order to protect the public interest a resolution should be adopted setting the date for the public hearing as provided by Ordinance No. 306-N.S. and that Mr. Osthues be advised that this was done as a means of protecting the citizens of the city and that if he was able to resume operation on a satisfactory basis prior to the hearing that this would be taken in consideration by the Council. Councilman Annan pointed out that he did not wish to cause any additional hardship to Mr. Osthues but that the stopping of a transportation system in a city the size of Modesto was a serious matter. To relieve the city of a reoccurrence of this episode, he stated, he believed that the hearing should be held. Councilman Arata introduced

#### RESOLUTION NO. 54-255

seconded by Councilman R. Adams, fixing the time and place for a public hearing at which the Council will consider the matter of the revocation or suspension of the permit of the Modesto Transit Company to operate motor buses on a fixed schedule and over an established route within the city for failure to comply with the terms and conditions of said permit, as Wednesday, August 25, 1954, at 8:30 P.M. in the Council Chamber of the McHenry Library Building, 14th and I Streets, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Pro Tempore  
Merrill  
Noes: Councilmen: None  
Absent: Councilmen: Mellis and Mayor Marks

#### REQUEST FOR ADDITIONAL BUS ZONES-WILLIS KLEINENBROICH

The City Manager reported that a request had been filed by Mr. Willis Kleinenbroich that adequate bus zones be established on 10th Street. After checking with Mr. Kleinenbroich, the Traffic Engineer has recommended that the following four zones be established on 10th Street,

Northwesterly side of 10th Street at J Street  
Southeasterly side of 10th Street at J Street  
Northwesterly side of Tenth Street at I Street  
Northeasterly side of Tenth Street at H Street

Clearance with the business concerns at these locations, will be made, the City Manager stated, before Council action is taken.

The Traffic Engineer suggested that the bus zones be painted red, as provided by the California Vehicle Code, instead of yellow which would prevent their use by trucks and cars.

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The City Attorney pointed out that the proposed locations would call for the removal of two taxicab stands and a number of parking meters.

REPORT ON LEASE WITH NAVY FOR ADDITIONAL LAND AT THE AIRPORT

The City Manager reported that the lease submitted to the city for execution by the Twelfth Naval District on Naval Reserve facilities at the Municipal Airport provided for a term of 20 years. All the discussion on this lease, the City Manager continued, was that the lease should be for a term of ten years only. He suggested, to which the Council concurred, that the lease be prepared so that the city could serve notice at the end of nine years that the lease would be terminated at the end of ten years, after giving the navy a 12 months notice.

CITY MANAGER ANNOUNCE THE APPOINTMENT OF GEORGE H. SMEATH AS PLANNING DIRECTOR

The City Manager reported the appointment of George H. Smeath as Planning Director, effective as of September 1, 1954.

INTRODUCE NEW ASSISTANT CITY MANAGER TO COUNCIL

The City Manager introduced the newly appointed Assistant City Manager, Carl Millar, to the Council.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman Arata, which was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 9:15 P.M.

ATTEST: ANNE M. COLLINS, ACTING CITY CLERK

*Anne M. Collins* city clerk

The Council of the City of Modesto met in regular session this date at 4:00 P.M. in the Council Chamber of the City of Modesto at 14th and I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. Leland Nelson of the Church of the Brethren.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of July 28 and August 4, 1954, and the same being available for public inspection, and there being no objections the minutes were approved.

#### ACCEPT BID OF A. P. RASMUSSEN FOR CONSTRUCTION OF SANITARY SEWER TRUNK LINE ON AMHERST AVENUE FROM ROSEBURG AVENUE TO FORDHAM AVENUE

Tabulations of the two bids received on the construction of sanitary sewer trunk line on Amherst Avenue from Roseburg Avenue to Fordham Avenue, which had been opened at 2:00 P.M., August 16, 1954, were distributed to the Council for its consideration. The Director of Public Works recommended that the low bid of A. P. Rasmussen of \$4,206.40 be accepted. Councilman Annan introduced

#### RESOLUTION NO. 54-261

seconded by Councilman Arata, accepting the bid of A. P. Rasmussen for the construction of sanitary sewer trunk line at above described location and authorizing the execution of contract by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

#### LETTER FROM ROTARY CLUB RE: ACCEPTANCE OF GIFT OF LAND FROM HORACE DRYDEN FOR AN 18 HOLE GOLF COURSE

A letter was read from the Modesto Rotary Club advising that its Board of Directors had unanimously gone on record in favor of the city's acceptance of the gift of land from Horace Dryden for an 18 hole golf course and its development at an early date.

Mayor Marks pointed out that the city was most grateful to Mr. Dryden for his public spirited gesture in offering this land to the city for this purpose but since the land was not sufficient for an 18 hole course, and it would be necessary for the city to purchase additional acreage, that the Council had to consider this along with other important project, the first of which would be the city hall.

The City Manager reported that Mr. William Bell, Golf Course Architect, hired by the city, would make a preliminary report on the course, giving the estimated cost and additional land needed, etc., on Monday, August 23. A priority list of projects for Council consideration would be submitted at the next Council meeting, the City Manager stated. It was agreed that the City Clerk should acknowledge receipt of the letter advising the Club of the action already taken by the City including authorizing a preliminary plan of the course by Mr. Bell.

FURTHER DISCUSSION ON CITY HALL

Councilman Mellis, who was absent at the last Council meeting when the City Hall Committee had been authorized to make an investigation of architects for a city hall and submit 2-3 for Council consideration, asked and was granted permission to discuss the matter further at this time.

He stated that he considered it was necessary to determine a means of financing the city hall before an architect was selected because the public would want to know how it would be financed. He suggested that the Council members confer with a local architect, who had suggested to him a finance plan similar to the plan Yuba City was using to build its hospital, which was financed through the New York Life Insurance Co. It is possible, he stated, that local bankers could arrange a satisfactory finance plan similar to the plan used at Yuba City.

It was agreed by the Council that the committee, and any other interested member of the Council, conduct an investigation on the financial plan and the selection of an architect simultaneously and recommend a concrete plan to the Council. It was agreed that the study would include the matter of the site of the city hall and the possible purchase of additional land adjoining the 15th street property, which could be also included in the financial plan.

RELOCATION OF TAXICAB STAND (JOANN'S TAXI)

Traffic Director Carmody reported that the property owners and merchants adjoining the proposed four bus loading zones on 10th Street, which had been requested by the Modesto Motor Bus lines, had offered no opposition. City Attorney Grimes presented for consideration a resolution calling for the moving north of the taxicab stand of Joann's from the west side of Tenth Street at J Street a distance of 46 feet and a resolution calling for the relocation of the Yellow Cab Company zone a distance of 47 feet from the west side of Tenth Street at I Street and a resolution designating four bus loading zones on Tenth Street at its intersections with H, I and J Streets. Councilman Merrill introduced

## RESOLUTION NO. 54-262

seconded by Councilman Annan, eliminating the present taxicab stand of Joann's Taxicab Co. on the west side of Tenth Street at J Street and moving it 46 feet northwesterly from the present location and directing the Traffic Engineer to mark and post in accordance with the provisions of this resolution and applicable laws of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

Councilman M. Adams introduced

## RESOLUTION NO. 54-263

seconded by Councilman Arata, eliminating the taxicab stand presently used by Yellow Cab Co. on the west side of Tenth Street at I Street and moving it 47 feet northwesterly from the present location and directing the Traffic Engineer to mark and post in accordance with the provisions of this resolution and applicable laws of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

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Councilman Arata introduced

RESOLUTION NO. 54-264

seconded by Councilman M. Adams establishing bus loading zones at the following locations:

Northeast corner of Tenth and H Streets  
 Northwest corner of Tenth and I Streets  
 Northwest corner of Tenth and J Streets  
 Southeast corner of Tenth and J Streets

and directing the Traffic Engineer to cause the above locations to be marked and designated in accordance with the provisions of this resolution and Section 31 of Ordinance No. 345-N.S. and to remove all parking meters installed along the curb adjacent to the above described locations, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

MAYOR MARKS INTRODUCE GUEST RENE DIJLOUD OF CHERBOURG FRANCE TO COUNCIL

Mayor Marks introduced Rene Dijoud, an administrative official from Cherbourg France who was visiting the United States for one month under the foreign leader program of the international education exchange service of the Department of State. Mr. Dijoud is studying governmental functions at all levels, Mayor Marks stated, and is visiting three different sized cities in the United States, Modesto has been honored by being selected as one of these cities.

DISCUSSION OF PROPOSED RATE INCREASE ON NATURAL GAS BY PACIFIC GAS AND ELECTRIC COMPANY

A further discussion was held by the Council on the notification received from the Pacific Gas & Electric Company and the Public Utilities Commission of a public hearing which will be held on August 25 at 10:00 A.M. in San Francisco on a proposed rate increase for natural gas.

The City Manager stated that an answer to the city's request for additional information had not yet been received from the Pacific Gas & Electric Company. The Mayor pointed out that although the hearing would start next Wednesday it would be continued for sometime and the city could take action later when it had more information.

Councilman Annan pointed out that the following facts should be considered before any action was taken by the Council, 1) The P. G. & E. does not produce any gas whatsoever, all the gas they sell they buy and 2) the P. G. & E. has no financial connection with the El Paso Natural Gas Company from whom they buy gas.

Mr. I. J. Tremain, local manager of the Pacific Gas & Electric Company advised that the requested rate increase was based upon the increased cost of buying natural gas from the El Paso Natural Gas Company, which was permitted by the Federal Power Commission on January 1, 1953, to raise its rate. He stated that the increased cost paid to El Paso Natural Gas Company is subject to refund when its rates are finally determined by the Federal Power Commission. P. G. & E. Company, he stated proposes to refund any portion of its proposed increase collected in excess of the increased cost of gas finally authorized by the Federal Commission. In answer to a question, he stated that the increased assessments from 47% to 52% recently set by the state in the Public Utilities roll for 1954-55, could possibly force the company to ask for an increased rate later on but that it had not been considered in the present request for increased rate. He stated that the gas used in Modesto

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was out of state gas since his company had discontinued using gas from the Rio Vista field approximately 18 months previously. He stated that he was not certain but he believed that the increased rates was not state wide but exempted the area where a recent merger had occurred in the bay area. Mr. Tremain was requested to be present at the next Council meeting at which time it is hoped the Council could consider its stand on the request for increased rates.

#### FURTHER DISCUSSION ON PROPOSED IMPROVEMENT DISTRICT #2

Mayor Marks declared the meeting open for consideration of policy and technical matters relating to the proposed improvement district #2.

Mr. Carlos Badger stated that as indicated on his previous petition which he had filed with the Council, he was interested in obtaining an alley in the block between Orangeburg and Roseburg Avenues and Sycamore and Marilyn Avenues, and in having the sewer lateral constructed in either the present dedicated 7½ foot alley or the 5 foot easement through most of the block, rather than having the lateral constructed in the street as proposed in the plans and specifications for the district. His reasons, he stated, were 1) that it would result in a financial saving to most of the property owners when it became time to hook up their existing sewer facilities to the sewer lateral 2) garbage pickup as well as rubbish pick up by the city of grass and shrubbery clippings could be made from the alley instead of the street, 3) an alley would increase the valuation of the property.

He stated that he was willing to pay his share of any additional cost to the city, if there was any, to have the sewer in the alley or easement and that he would be willing to dedicate additional land to the city, as were a number of his neighbors.

He asked that the city engineering staff furnish him with the information as to the costs of constructing both the line in the street and the line in the alley so that this could be given to the property owners to enable them to determine in dollars and cents where the sewer was to be built. He acknowledged that the location involved not only an engineering problem--whether it could be built in the alley--but also a financial problem and who would pay the additional costs. However, he stated when these facts are determined and properly presented to the property owners, then and only then can the location and other questions be resolved by a majority of the property owners.

The City Manager stated that two petitions had been filed by property owners in this area at the last Council meeting presenting another point of view on the problem. He stated that the "crux" of the problem was the matter of costs. The engineering staff could make an estimate of the approximate costs but it would be only an estimate. The best way to get at the costs would be to call for bids on both alternate routes. He stated that the area could be withdrawn from the district and considered at a different time than the public hearing on the district.

The City Manager stated that a summary of the facts would be assembled during the week for the study of the Council prior to the public hearing on August 25.

Mr. Badger pointed out that this was the right time to open up the alley if it was ever to be opened. He stated that the M.I.D. had indicated that it was having difficulties in serving this area with the presently installed poles in the easement and also wished the alley opened up.

Mayor Marks suggested to Mr. Badger that a signed commitment from the property owners on whether they wished to have an alley would have a great deal of weight in the consideration of the location of the line. Mr. Badger stated that before this was done it would be necessary to have the

information as to costs which he had requested be furnished by the engineering staff.

Mrs. Nick Vaccaro stated that the petition which she had filed last week signed by a majority of the property owners on the west side of Sycamore, set forth the fact that they were unwilling to deed to the city additional land for an alley.

Mrs. Walter Davies stated that the majority of the property owners on Marilyn Avenue were also unwilling to deed additional land.

Mr. Jim Harding pointed out that a number of the names appearing on the petition filed last week by Mrs. Vaccaro also appeared on the petition filed by Mr. Badger asking for the sewer to be placed in the alley. He stated that the M.I.D. had indicated its willingness to assume part of the cost for removing the tree stumps in the easement area.

The Council indicated that a recommendation on the location of the sewer lateral by the Department of Public Works would be desirable.

To a suggestion made by Mr. Badger that in determining the location only those who intended to connect up to the lateral within a reasonable time be allowed to vote on it, Mayor Marks pointed out that all property owners would be affected and would be required to pay and would be entitled to participate.

Since the property owners on Marilyn Avenue had not filed the fees required under Ordinance No. 1070-N.S. it was pointed out that it would be necessary to consider the matter at the public hearing on August 25, but in the event these fees were filed prior to the public hearing the whole area could be deleted from the district and the matter of the location of the lateral considered at a later date.

#### CLEAR AMOUNT OF PARTICIPATION OF CITY IN COST OF CIVIL DEFENSE EQUIPMENT

The City Manager reported receiving confirmation from the State Office of Civil Defense of federal participation in the purchase of a selective siren and radio equipment to be used by the Police and Fire Departments in the civil defense program. This federal participation, he stated, would be 50% of the cost price, which would amount to \$1,182.00 on the radio equipment and \$930.00 on the siren. Participation by the state to an extent of 25% was also available if title to the equipment would remain with the state, which would amount to a total savings of \$1,056.00, the City Manager stated. The City Manager suggested that the state's offer be accepted thus minimizing the costs to the city, since there would be a remote possibility of the state removing the equipment from the city's control. Councilman Annan moved, seconded by Councilman M. Adams, which was unanimously carried, that the City Manager be authorized to notify the State Office of Civil Defense of the desire of the City of Modesto to accept state participation of 25% in the cost of the civil defense equipment.

#### GRANT PERMIT TO STANISLAUS COUNTY CHAPTER OF THE NATIONAL FOUNDATION FOR INFANTILE PARALYSIS TO PLACE WISHING WELLS IN THE BUSINESS DISTRICT FOR THE SPECIAL EMERGENCY MARCH OF DIMES CAMPAIGN

The City Manager reported that a request had been filed by the Stanislaus County Chapter of the National Foundation for Infantile Paralysis sponsored by the Modesto Junior Chamber of Commerce to place four wishing wells in the business district for the special emergency March of Dimes campaign for funds. Councilman Mellis introduced

#### RESOLUTION NO. 54-265

seconded by Councilman Arata, granting permit to install four wishing wells in the business district to said applicant providing that prior to the placing of these wishing wells that written evidence will be furnished the

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city by the applicant of its willingness to indemnify and hold the city harmless from and against any and all costs, damages, and liability arising out of the erection and maintenance of said wishing wells, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor marks  
Noes: Councilmen: None  
Absent: Councilmen: None

DISCUSS METHOD OF DISTRIBUTION OF SUMMARY REPORT OF THE FORWARD MODESTO COMMITTEE

The City Manager reported that it was proposed to place copies of the summary report of the Forward Modesto Committee on sale in the local newsstands for a minimum charge of 10-15¢ so that the widest possible distribution could be given to the report. The approximate cost of printing is something over 10¢ and by charging this fee it would relieve the stands from charging any sales tax, he stated. Councilman Merrill moved, seconded by Councilman Mellis, which was unanimously carried, approving the general method for the sale and distribution of the report outlined by the City Manager and authorizing him to proceed.

Mayor Marks suggested that the City Manager send copies of the report to Kiplinger's, Business Week magazine and other interested parties.

REPORT ON COMMITTEE'S MEETING WITH BOARD OF EMPIRE SANITARY DISTRICT

The City Manager reported that the Council Committee, together with the City Attorney, Director of Public Works, and he, had met with the representatives of the Board of the Empire Sanitary District to discuss the Board's recent request that the City of Modesto provide for the needs of Empire and the area between Empire and the city, so far as sewage disposal facilities are concerned and the possibility of Empire's being able to abandon its present disposal works. The District, the City Manager stated, was concerned about the future of its disposal area and also its effect on the river and future plan for a park and recreational area on the river. A summary report will be furnished by the District, he stated, which can be turned over to the City Engineering Staff to determine whether it would be practical engineering wise and cost wise to consider this request.

Mayor Marks requested that a letter be sent to the District, commending it on its interest in the river and the development of a long range future recreation and park area near the river between Empire and Modesto.

SET DATE FOR HEARING ON AMENDMENT TO ZONING ORDINANCE TO ADOPT A BUILDING LINES MAP ESTABLISHING BUILDING LINES ON WEST SIDE OF MCHENRY AVENUE BETWEEN GRISWOLD AND M.I.D. LATERAL NO. 3

The City Manager reported that at a special meeting of the Planning Commission held on August 17, a resolution had been adopted recommending to the Council that the building lines map on file in the City Clerk's office be adopted, thus, establishing building lines on the west side of McHenry Avenue between Griswold and M.I.D. Lateral No. 3, be fifty feet from the center line of the street. This would conform with the county regulations, the City Manager stated, during the interim period until adoption of the zoning ordinance. Councilman Merrill introduced

RESOLUTION NO. 54-266

seconded by Councilman Annan, setting the date of September 8 at 8:00 P.M. in the Council Chamber, 14th and I Streets, as the time and place for the public hearing on the matter of amending the zoning ordinance to adopt a building lines map establishing building lines on the west side of McHenry Avenue between Griswold and M.I.D. Lateral No. 3 of 50 feet from the center line of the street, which resolution was regularly adopted by the following

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**vote:**

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

The City Manager stated that prior to the time of this hearing a report of the Planning Commission's findings would be provided for each Council member for study.

GRANT PERMIT TO CITY ATTORNEY GRIMES TO ATTEND NIMLO CONFERENCE

Councilman Annan moved, seconded by Councilman Merrill, and it was unanimously carried that City Attorney Grimes be authorized to attend the annual conference of the National Institute of Municipal Law Officers in San Francisco September 13-15, 1954, with expenses paid by the city.

GRANT PERMIT TO CITY MANAGER TO TAKE VACATION

Councilman Merrill moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager be permitted to take his two weeks vacation beginning after August 25th.

INVITATION FROM THE INTERNATIONAL CITY MANAGERS' ASSOCIATION TO CITY TO BE REPRESENTED BY CITY MANAGER AT THE ANNUAL CONFERENCE IN ST. PETERSBURG, FLORIDA

An invitation from the International City Manager's Association to the City of Modesto to be represented by City Manager Miller at its 40th Annual Conference to be held at St. Petersburg, Florida, on December 5-8, 1954, was read and ordered filed.

The City Manager stated that although he would be glad to attend, he would rather that the money be spent on securing the Junior Chamber International location in this city, since this project is still active and very important to this community.

Mayor Marks expressed approval of this recommendation and stated that he had expressed on behalf of the Council willingness to cooperate with the local Junior Chamber in this project in every way possible.

RENE DIJOURD EXPRESS APPRECIATION FOR HOSPITALITY SHOWN WHILE BEING GUEST OF CITY

Rene Dijourd expressed his appreciation for favors shown him by the Council and others during his present visit in Modesto. He stated that he appreciated being allowed to see how the government of Modesto operated and to see democracy in action. The manner in which citizens are allowed to speak at the meetings was of interest to him, he stated, since this was not permitted in France. Private individuals have to petition various boards, commissions, particular members of the Council, and can not be heard in public meetings. He stated that he believed that a city can have better administration by permitting public discussion.

Albert Pedersen, Captain of the Police Reserve, cited incidents which had occurred while he was a resident of the City of Cherbourg during the period of 1911 and 1912, which were both interesting and amusing.

COUNCILMAN R. ADAMS ISSUED INVITATION TO ATTEND THE PEACH "FLY-IN" BEING CONDUCTED BY THE MODESTO AIRMEN'S ASSOCIATION ON AUGUST 22 AT THE MUNICIPAL AIRPORT

A general invitation was issued by Councilman R. Adams to any interested party to attend the annual Peach "Fly-In" day being conducted by the

Modesto Airmen's Association on August 22 at the Municipal Airport.

ADJOURNMENT

Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried, that the meeting now in session adjourn. 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 7:30 P.M. in the Council Chamber at the McHenry Public Library, 14th & I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Absent: Councilmen: Merrill

Invocation was given by Rev. Dale Sherwood, of the First Christian Church.

REQUEST OF JUNIOR CHAMBER OF COMMERCE FOR ASSISTANCE IN ENDEAVOR TO OBTAIN JUNIOR CHAMBER INTERNATIONAL HEADQUARTERS IN MODESTO

Lew Graham and Charles Sypolt, representing the Modesto Junior Chamber of Commerce appeared before the Council and requested an allocation of \$500.00 from the city to be used in its program to secure the Junior Chamber International headquarters in Modesto. They outlined the proposed promotion campaign which included, 1) sending five delegates to the International Conference in Mexico City during October; 2) offer of financial assistance in moving the temporary headquarters from Tulsa, Oklahoma, and setting up in Modesto; 3) sending out 500-1,000 brochure all over the world outlining the advantages of Modesto for the international headquarters.

Mr. Graham stated that the chamber had already expended approximately \$1,000.00 of its own funds on this program. To a question from Councilman Mellis, Mr. Graham stated that business firms had already been solicited for contributions and some money had been received.

Councilman Mellis contended that the Council had no right to spend the public money in this manner and pointed out that many other organizations had drives for funds for worth while projects and did not call on the city to contribute. He expressed willingness to make a personal contribution to the program but questioned the advisability of the Council authorizing a contribution of city funds.

Mr. Sypolt pointed out the basic point was that the allocation did not go to the local chapter but to a program for the development of the community as a better place to live in. In bringing this international headquarters to Modesto, he stated, it would help the city both along cultural lines and industrial growth. The publication of the organization, which would show the name of Modesto, would go out to 3000 chapters all over the world and to 20,000 members of the organization. At the request of Councilman Annan, the expenses of the program were outlined by Mr. Sypolt.

Mayor Marks moved, seconded by Councilman R. Adams, that an allocation of \$500 be granted to the Junior Chamber of Commerce to share in the program to bring the Junior Chamber International headquarters to Modesto. Mayor Marks declared the motion carried.

The Chamber was commended for its assistance to the city in the distribution of the city's annual report and for its March of Dimes campaign. The City Manager noted that this \$500 donation would be in addition to the \$750 previously budgeted for the Junior Chamber.

LETTER FROM FRANK ANDREWS RE: PLAN FOR JOINT CITY HALL AND OFFICE BUILDING FOR THE MODESTO IRRIGATION DISTRICT

A letter from Frank Andrews offering a plan for the construction of a joint city hall and office building for the Modesto Irrigation District was read and referred to the Council Public Building Committee.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR IMPROVEMENT OF TULLY AVENUE BETWEEN PRINCETON AND CECIL WAY

Plans and specifications for the improvement of Tully Avenue between Princeton and Cecil Way were briefed by Director of Public Works Ray, for the Council. The City Manager stated that the rights of way on this portion of Tully Avenue had been cleared and that it could be handled separately from the lower end of the avenue where certain rights of way were still pending. Councilman M. Adams introduced

RESOLUTION NO. 54-271

seconded by Councilman Annan, approving the plans and specifications for the improvement of Tully Avenue between Princeton and Cecil Way and authorizing the calling for bids, which would be opened at 2:00 P.M. Sept. 7, in the City Clerk's office, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

CONTINUATION OF PUBLIC HEARING ON IMPROVEMENT DISTRICT #2

This being the time set for the further consideration of protests to the proposed work and boundaries in Improvement District #2, Mayor Marks declared the continuation of the hearing reopened at 8:00 P.M.

Director of Public Works Ray presented for Council information, a map of the proposed district showing the area which could be eliminated from the district through payment of cash funds under terms of Ordinance No. 1070-N.S., the area which had been previously sewered and the small remaining area to be sewered under the proposed district. The protests which had previously been filed, he stated, were eliminated by virtue of the fact they were all in the area which had paid cash. Thirteen objections, which represented 212,791 square feet or 3.6% of the area in the district had been filed opposing the street lights.

The total cost for sewers to the remaining area and the street lights for the entire area have been estimated to be of the order of \$35,000 by the engineering staff, he stated, and is a sufficient amount to be economically sound to proceed with Improvement District #2. There are certain small areas in blocks 719, 738, and 739 which could not obtain the necessary 100% participation, he stated. In view of the nature and character of the improvements in these areas, it is recommended that they not be considered for continued inclusion in the district insofar as sanitary lateral sewers are concerned.

He stated that it was his recommendation that the Council proceed on this basis. He pointed out that the areas which had paid cash and the isolated area could be withdrawn from the district by resolution. It would not be necessary to change the boundaries of the district due to the fact the street lights covered the original proposed district, he stated.

Mr. Eugene Sturgis, bond counsel who was present, pointed out that it would be desirable to provide in the resolution, that assessments on street lights, when they were under \$25.00 would appear on the tax roll and could be paid with the regular tax bill.

He outlined the legal procedure for the Council providing for the termination of both of the hearings at this meeting and the further consideration of the matters presented so that the necessary resolutions making the changes recommended and the work to be done, could be prepared.

Mayor Marks asked for oral objections to the proposed boundaries and the work to be done. No oral protests were filed.

To a question from Mrs. George Flint, the City Attorney stated that there was no ordinance similar to Ordinance No. 1070-N.S. which would permit the street lights to be installed on a cash basis with savings similar to those on the sewers.

A property owner on Grinnell reported disappointment in being unable to collect from only four of the 36 property owners in his block, which would increase the costs to them. He asked whether any other arrangements could be worked out. City Attorney Grimes pointed out that 100% participation in the block area was required. He also pointed out the reasons for the difference in the district basis of financing and the cash basis.

Councilman M. Adams moved, seconded by Councilman Arata, which was unanimously carried, that the legal counsel be instructed to prepare for next Council meeting an amendment to the Resolution of Intention so as to delete those areas which had paid cash under the provisions of Ordinance No. 1070-N.S. and the isolated areas in blocks 719, 738, and 739 and to provide that assessments for street lights amounting to \$25.00 and under be collected on the tax rolls.

Mayor Marks moved, seconded by Councilman Annan, which was unanimously carried, that the sewers be constructed in Sycamore Street and Marilyn and Brady Streets (Blocks 6003, 6004 and 6055) instead of the easement or alley. Mayor Marks pointed out the costs for construction in the alley or easement would be substantially greater than the cost of construction in the street, and it was necessary that the city's costs be kept to a minimum.

Councilman Annan moved, seconded by Councilman Mellis, and it was unanimously carried, that the hearing on proposed work and boundaries in Improvement District #2 and the hearing on the public convenience and necessity of the construction proposed in the Improvement District No. 2 without compliance with the Special Assessment Investigation Limitation and Majority Protest Act of 1931 be terminated, and the adoption of the resolution making the suggested changes in Resolution of Intention No. 242 be considered at the meeting of September 1.

#### ADOPTION OF TAX RATE ORDINANCE FOR FISCAL YEAR 1954-55

The City Manager reported that in setting the 1954-55 tax rate, consideration should be given to two changes relating to the library, 1) annexation and new constructions in the city had increased the assessment roll of the city for library purposes, and 2) the county had included in its final budget, funds for assuming a larger portion of the operating costs of the library. Although no formal agreement has been worked out with the county as yet, the City Manager continued, it can be reasonably assumed that the library tax rate can be reduced.

In the past, he stated, the library has always operated "in the red" for seven months of the year and has had to borrow money from other city funds, until the property taxes have been collected. Good business procedure would be to place this operation on a cash basis, which he estimated would take approximately \$19,000. He recommended that the library rate be sufficient to cover the operation expense, library reserve of \$19,000 (to run it for this seven months period) and include additional funds for capital improvements, (as recommended by the Forward Modesto Committee). Some of these funds could be used in lieu of payments of costs by the County, if necessary.

The amount available on the general fund basis over what was anticipated would be approximately \$23,000, which could allow a small reduction in the general tax rate. He pointed out that the budget allocation of \$4,500 for signals was not sufficient. Some consideration to increasing this amount and also street improvement allocation should be given at this time. He recommended that a 5¢ reduction be made in the city tax rate, 3¢ on the library and 2¢ on the general fund which would make the general fund

rate \$1.44 and the library rate 13¢ and which would still leave about \$17,000 which could be allocated to signals and other street improvements.

In the general discussion on the rate, Councilman Mellis suggested, which he later withdrew, that the general rate be reduced 5¢ instead of 3¢. It was generally agreed that the suggested reduction outlined by the City Manager be approved. Councilman Arata moved the adoption and passage to print

ORDINANCE NO. 1138-N.S.

entitled: "AN ORDINANCE FIXING THE RATE OF TAXATION IN AND FOR THE CITY OF MODESTO FOR THE FISCAL YEAR 1954-55" which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

MAYOR MARKS READ TELEGRAM FROM FORMER RESIDENT A. J. ACE WILLIAMS

Mayor Marks read a telegram regarding the incorporation of Seaside which he had received from A. J. Ace Williams, Manager Seaside Taxpayers Association, former resident of the City of Modesto.

HEARING ON MATTER OF REVOCATION OR SUSPENSION OF PERMIT OF MODESTO TRANSIT COMPANY TO OPERATE MOTOR BUSES WITHIN THE CITY OF MODESTO

This being the time set by the Council for the consideration of the matter of revocation or suspension of the permit of Modesto Transit Company to operate motor buses within the city, Mayor Marks declared the hearing open.

The City Manager read a communication from Mr. Osthues advising that since his company did not have sufficient funds to repair its bus and thereby restore the suspended service, and suggesting that the rights of his company to operate a motor bus in the city be revoked without a public hearing to save time to clear the way for any applicant who is able and willing to provide this service.

The City Manager also read a copy of a letter which the company had sent to the Public Utilities Commission asking that its permit be revoked. He pointed out that Mr. Osthues had been most cooperative in this matter. Councilman Mellis introduced

RESOLUTION NO. 54-266

seconded by Councilman Arata, revoking the permit of the Modesto Transit Company to operate motor buses within the City of Modesto and directing the City Clerk to send a copy of this resolution to E. B. Osthues and Mary Maritzen, owners of the Modesto Transit Co. which resolution was adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

Letters from the Modesto Retail Merchants Association and a copy of a letter from the Association to the Public Utilities Commission regarding the need of bus transportation in the city were read and ordered filed.

A letter from Willis Kleinenbroich, operator of the Modesto Motor Bus Service was read, advising that he planned to file a request shortly with the Public Utilities Commission for operative rights to serve the area which was formerly served by the Modesto Transit Company. He asked the Council to adopt a resolution which he could present to the Commission with his application, favoring such a service to speed up the obtaining of operative

8-25-54

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rights for this area.

Councilman R. Adams introduced

RESOLUTION NO. 54-269

seconded by Councilman Annan, urging the Public Utilities Commission to act expeditiously on any application to bring passenger bus service to the area formerly served by the Modesto Transit Company, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

ORDINANCE APPROVING LEASE OF A PORTION OF AIRPORT TO UNITED STATES NAVY

The City Manager reported that as approved by the Council the lease with the United States Navy for additional land at the municipal airport had been changed to provide for the recovery of the land after a period of 10 years instead of 20 years as originally prepared by the Navy, and was up for final approval by the Council at this time

He pointed out that one point which needed to be cleared was that the lease was for a specific term regardless of whether the Navy built a building on it or not

A general discussion was held on the possibility of returning the lease to the Navy and requesting that this clause be included.

Councilman Annan recommended that the approval of the lease be held over for a week's consideration, while Councilman Mellis recommended that the lease be approved at this time. Councilman Mellis moved the introduction and passage to print of Ordinance No. 1139-N.S. entitled: "AN ORDINANCE APPROVING THE LEASE OF CERTAIN AIRPORT PROPERTY TO THE UNITED STATES OF AMERICA AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH", which motion being seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: Annan  
 ABSENT: Councilmen: Merrill

CITY MANAGER REPORT ON APPLICATION OF PACIFIC GAS & ELECTRIC CO. FOR INCREASE IN RATE FOR NATURAL GAS SERVICE

The City Manager reported receipt of copies of the exhibits furnished the Public Utilities Commission by the Pacific Gas & Electric Company in its application No. 35256 for an increase in natural gas rates. He stated that he had phoned the rate engineer of the P.U.C. and learned,

1. That the largest rate increase which would result was a 6.3% for the general service users and that there would be smaller increases to certain other users.
2. That this area was not being penalized because the gas furnished was from out of state.
3. That it would be necessary for the P.G. & E. to present facts and figures on its operating costs before any increase would be allowed and that the general earning position of the company would be considered.
4. That if the Public Utilities Commission made a special report of its findings this would be available to the city at a future date. It is possible the case will be further reviewed by the Public Utilities Commission in 2 or 3 weeks and, if so, the city could take action on

the requests at that time.

It was generally agreed by the Council that no action should be taken unless further information was received.

AUTHORIZE OBTAINING ENGINEERING SERVICES FOR PLANS AND SPECIFICATIONS FOR THOUSAND OAKS PARK PUMP STATION

The City Manager reported that the plans and specifications for the LaLoma area trunk sewer line would be presented to the Council for its consideration at an early date. Plans and specifications for the pump station which will be necessary in the Thousand Oaks Park are still to be prepared. He asked for approval by the Council for the hiring of engineering services to assist in the preparation. Councilman Annan moved, seconded by Councilman R. Adams, which was unanimously carried, that the City Manager be authorized to arrange for additional engineering services to prepare the plans and specifications for the pump station in Thousand Oaks Park.

DISCUSS PRIORITY ON CAPITAL IMPROVEMENT PROJECT

Mayor Marks pointed out to representatives from the Municipal Golf Course Clubs who were present that the passage of the ordinance increasing the sales tax would ultimately assure the construction of an 18 hole golf course. The question to be decided by the Council is the priority of the various capital improvement projects recommended by the Forward Modesto Committee.

City Attorney Grimes called the attention of the Council to an article in the August "Western City" magazine by Philip T. Lawlor, Budget Officer, San Diego, entitled "Capital Improvement Program for Orderly Community Development", outlining five basic steps for satisfactory program priority.

Mayor Marks pointed out that the estimated income from the additional sales tax was \$300,000 annually but since the effective date of the ordinance was Oct. 1, only \$150,000 would be collected during the fiscal year of 1954-55. He pointed out that within a period of three fiscal years there would be approximately \$750,000 which could be expended for capital improvements as recommended by the Forward Modesto Committee.

The City Manager reported that the Council Building Committee at a recent meeting had considered a priority list of capital improvement projects on a most preliminary basis, and presented a work sheet which had been prepared for use by Council members.

One possible allocation of funds considered was as follows:

Project	1954-55	1955-56	1956-57
City Hall	\$60,000	\$60,000	\$60,000
Dennett Dam * $\frac{1}{2}$		35,000	
Downey Pool ** $\frac{1}{2}$		25,000	
Park Development	15,000		
Park Site Acquisition	25,000	25,000	
Beard Brook Bridge * $\frac{1}{2}$		50,000	
Golf Course	50,000	50,000	50,000
Airport Land *** $\frac{1}{4}$		25,000	
Unallocated		30,000	180,000
	\$150,000	\$300,000	\$300,000

\* On the basis that cost would be shared by County

\*\* On the basis that cost would be shared by Schools

\*\*\* On the basis of one-half Federal, one-fourth City, one-fourth county.

The City Manager pointed out that each of these projects was a big enterprise calling for "lots of work, responsibility, involving engineering and architectural work, negotiations and contracts." Each project should

be given the most serious consideration. Priority selection should be made on the degree of service to the community or revenue it might produce.

It was pointed out that the Forward Modesto Committee had given a high priority to the development of an 18 hole golf course primarily because of Dryden's offer of land.

Councilman R. Adams stated that the City Manager had been asked by the Council Building Committee to prepare a report on all available information regarding various methods of financing the City Hall so that the best method for retirement of the principle and interest could be determined by the Council. The Council has a definite obligation to rebuild the Dennett Dam, he stated, as he briefly outlined the importance of the various projects which the Committee had listed. The amounts and priority of the various projects, as listed by the committee, he stated, were only "to start the ball a-rolling" and to get started on a priority program and rearrangement of these figures and projects could and possibly would be made by the Council. However, he stated, the committee considered the number one project should be the city hall. The savings to the city would be material if all the offices were centered in one building instead of scattered throughout the city, it was pointed out. When the City Manager's report is submitted to the committee and the method of financing is determined for the city hall and the number of years needed to finance it, then the final annual amount to pay the cost can be determined.

Councilman Annan pointed out to the golfers that the cost of financing the various projects would be considerable but that the benefit and enjoyment derived by the citizens would be a prime consideration of the Council in getting these started. He pointed out that the finance cost on a city hall when divided by the number of families in the city would cost the average citizen a nominal amount.

Councilman M. Adams suggested that priority consideration be given to the suggestion of the Forward Modesto Committee for improvement to streets and a building which would house the police and fire department. He pointed out that the joint operation of the facilities of these two departments would effect a savings to the city. Councilman R. Adams pointed out that the unallocated amounts listed each year in the report could be used for these purposes.

Mayor Marks pointed out that it would not be possible to spend the estimated \$60,000 this year on the city hall, since it would be necessary to determine the method of financing and the hiring of an architect. He suggested that this be reduced to \$20,000. He suggested that the engineering be done on the Dennett Dam this year and the work done next year. He agreed with the suggestion of the committee on the placing of the swimming pool at the Downey High School in the next year's budget since the school tax rate had already been approved and they would be asked to assume part of the construction expense. He recommended that the city acquire the 10 acres offered by Joe Mineni adjoining the Downey High School as an additional park site. He questioned the advisability of placing the amount of \$50,000 a year for the development of the 18 hole golf course. Although he was heartily in favor of an 18 hole golf course, he pointed out that this represented one-sixth of the estimated income from the sales tax and questioned whether one-sixth of the citizens of the city would use the course. He pointed out that in order to develop the 9 hole course as a recreation center, with a soft ball field and tennis court facilities and parking area, that it would cost approximately \$50,000 additional. Consideration, of course, must be given to the offer of Mr. Dryden to deed the 50 acres site to the city when considering this whole program, he pointed out.

City Manager Miller reported that William F. Bell, Golf Course Architect, had estimated the cost of the proposed 18 hole golf course to be as follows:

## PRELIMINARY COST ESTIMATE

PROPOSED 18-HOLE GOLF COURSE - MODESTO

1.	Grading and site preparation. . . . .	\$ 17,000.00
2.	Pipe and fittings for water system. . . . . (12 guage, black, D & W) (2" and under galvanized)	40,000.00
	Does not include provision for water supply. +\$15,000 to \$20,000 for transite or cast iron pipe.	
3.	Sprinklers and quick coupling valves. . . . .	4,500.00
4.	Installation of water system. . . . .	21,000.00
5.	Sand for traps. . . . .	2,500.00
6.	Preparation of seed bed and seeding . . . . .	6,000.00
7.	Grass seed. . . . .	8,000.00
8.	Fertilizer. . . . .	4,000.00
9.	Water (electric power). . . . .	4,000.00
10.	Experienced golf course construction. . . . . foreman - 10 months @ \$500.00 per month	5,000.00
11.	Golf course architect's fee for prepara-. . . . . tion of plans and specifications and architectural supervision	7,000.00
12.	Turf development (labor for mowing, fer-. . . . . tilizing, top dressing, etc., until course ready for use)	18,000.00
		<u>\$137,000.00</u>

A proposal had been worked out, he stated, under which it would be possible to get by with less land temporarily and to acquire additional land later for practice area and driving range. The Council could consider the possibility of doing it in two stages. It would be possible to take an option on the additional land needed.

Councilman Annan stated that it would be unfortunate to leave out the driving range since it would be a source of revenue to the golf course program as a whole.

Nels Betker representing the golf clubs, stated that the clubs had turned down the suggestion that a subscription drive be conducted, since no specific time for completion of the course had been fixed. He stated that if the clubs could be given a definite commitment by the Council, as to when the course would be built, no doubt a successful drive could be conducted. He pointed out the importance to the city of the large recreational area which could be developed at the 9 hole golf course, which contained 44 acres. At the present time, he stated, the combined city park area is only 55 acres.

Mayor Marks pointed out that the suggestion for a subscription drive was that if the golfers raised \$30,000, \$20,000 or \$10,000, it would mean that they would get their 18 hole golf course, \$30,000, \$20,000, or \$10,000 sooner.

Councilman R. Adams pointed out that during his term on the Council action on the offer of Mr. Dryden to deed land to the city to be used for an 18 hole golf course had moved as rapidly as any other project of this magnitude. That the course could not be developed unless there were funds to do it. Now since the adoption of the ordinance increasing the sales tax, funds had been assured--how much and how they are to be expended, that is what the Council is trying to decide.

Mr. Betker assured the Council that the golfers recognized that it would take time and that there were many things involved but that no assurance had been given by the Council that the offer of Mr. Dryden would be accepted or the course be built. He suggested that an endeavor be made by the city to have Mr. Dryden extend his offer.

Mayor Marks stated that negotiations had been proceeding between the City Attorney and the counsel representing Mr. Dryden.

Mr. Harry Rix stated that it had been the thought of the members of the club to attend this meeting to be helpful to the Council, that the problems of the Council were recognized. He requested that the break down of the expenses for constructing the course be furnished to the clubs to determine how a program could be adopted to give assistance in the project, such as grading, etc., donation of pipe and other needed materials.

Data was given by the City Manager which demonstrated the rapid increase in the course. He pointed out that normally an 18 hole course would more than support itself.

Mr. Frank Regan stated that the golfers were anxious to receive a definite estimate of the cost of the course so that a program could be arranged for assistance in the grading and materials, as a number of companies have offered machinery and services. He recommended that arrangements be made with Mr. Dryden to extend his offer of the land for the 18 hole golf course.

Mr. Rix answered a question from Mayor Marks, of how much the donated services would amount to by stating that, until the type of equipment needed and grading to be done had been determined by the city it would be hard to give an estimate. After this information is given it is planned to pool the equipment from the various companies, who have already indicated they are anxious to assist in the program.

The City Manager pointed out to the golfers, that "the city cannot go into this at all on any basis on which it can lose money, only go on a basis that it knows it can do it."

The meeting was recessed at 11:00 P.M. for a period of five minutes.

The Council reconvened at 11:05 P.M.

The City Manager recommended that two or three weeks study be given to the subject of project priorities by the Council.

A letter from the Elks Club recommending the development of the 18 hole course was read.

AUTHORIZE EXECUTION OF DEED GRANTING UNDERGROUND UTILITY EASEMENT THROUGH A PORTION OF THE PARK AREA ACQUIRED FROM C. BOYCE AND FRANCES E. ASHFORD

The City Attorney presented for Council consideration a deed of easement from the City to C. Boyce Ashford and Frances E. Ashford covering an

underground utility easement through a portion of the park area acquired from them. Councilman Annan introduced

## RESOLUTION NO. 54-267

seconded by Councilman Arata, authorizing the execution of a deed granting underground utility easement to C. Boyce and France E. Ashford granting an underground utility easement through a portion of the park area, and authorizing the recording with the County Recorder, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

ACCEPT WATER EASEMENT DEED FROM MCHENRY VILLAGE INC.

Councilman R. Adams introduced

## RESOLUTION NO. 54-272

seconded by Councilman Annan, accepting water easement deed from the McHenry Village Inc., and authorizing recording with the County Recorder, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

ACCEPT DEEDS FROM MCHENRY VILLAGE INC. AND MODESTO INVESTMENT COMPANY FOR ALLEY AT MCHENRY VILLAGE

Councilman Mellis introduced

## RESOLUTION NO. 54-273

seconded by Councilman Annan, accepting grant deeds from the McHenry Village Inc. on land to be used for alley purposes in the McHenry Village, and authorizing the recording with the County Recorder, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

APPOINT CARLYLE D. MILLAR CITY MANAGER PRO TEMPORE DURING THE ABSENCE OR DISABILITY OF THE CITY MANAGER

Councilman Annan introduced

## RESOLUTION NO. 54-268

seconded by Councilman Annan, appointing Carlyle D. Millar, Assistant City Manager, as City Manager Pro Tempore during the absence or disability of the City Manager and rescinding Resolution No. 9803-N.S., which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

CITY MANAGER REPORTED ON WIDENING OF BRIDGE ON MCHENRY AVENUE AT BRIGGSMORE AVENUE BY STATE

The City Manager reported that authorization for the widening of the McHenry Avenue bridge over the Modesto Irrigation canal at Briggsmore Avenue has been approved by the state. The new bridge will be 80 feet wide and will tie into the four lane width of McHenry Avenue. The turn off into Norwegian and Briggsmore Avenues will be rounded so as to facilitate the flow of traffic at that point.

REPORT ON MEETING WITH REPRESENTATIVES FROM THE TIDEWATER SOUTHERN RAILWAY COMPANY

The City Manager reported that a meeting had been held with representatives of the Tidewater Southern Railway Company recently. The company reported that they had approached the Southern Pacific Company for permission to operate over their tracks through Modesto in order to eliminate operations on Ninth Street. The S. P. Company had denied the request but the city had requested that further study on the request be made by the Tidewater. A letter was read from the Tidewater Southern Railway Company relating to this matter and the City Clerk was directed to send a copy to Attorney Vernon Gant.

At the meeting, the City Manager stated, the Tidewater representatives had asked whether there would be any basis on which the city would approve permitting the company to continue on Ninth Street and he had answered "no". He asked if the members of the Council concurred and general agreement was indicated.

REPORT FROM CITY MANAGER ON OPERATION OF THE DISPOSAL AREA

The City Manager reported that the disposal area at the sewer farm was again in operation. He suggested that the Council consider authorizing the reopening of the old municipal dump across the river for use in any emergency or as was desirable since the garbage company could not be expected to haul to the county area at the present rates. He suggested that the Council indicate its approval by motion and the necessary documents could be prepared by the Attorney for consideration at a later date. He suggested that an appropriation transfer from the general reserve fund of \$3,000, which would include the previous \$1000 approved by the Council, for expenditure at the disposal area. It is planned, if necessary, he stated, to continue placing guards at the area and the road leading to the dump should be repaired before the rainy season. Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that the opening of the old municipal dumping area, to be used in case of emergency or as was desirable, be approved in principle and the City Attorney be instructed to prepare the necessary documents accomplishing this for consideration of the Council at a later date.

Councilman Mellis introduced

RESOLUTION NO. 54-270 N.S.

seconded by Councilman Annan, approving appropriation transfer of \$3,000 from the general reserve to Public Works, Garbage Disposal Area, to provide for cost of creating garbage dump at disposal plant, and to provide guards for levy, as well as repairs of dike break, which resolution was regularly adopted

by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: Merrill

COUNCILMAN R. ADAMS REPORTED ON SUCCESS OF "PEACH FLY-IN DAY" AT AIRPORT


Councilman R. Adams reported that the "Peach Fly-In Day" held at the Municipal Airport on August 22, 1954, had been very successful, and that about 100 planes had flown in.

TRAFFIC ENGINEER CARMODY REPORT ON CHANGING OF SIGNALS AT INTERSECTION OF SEVENTH AND TUOLUMNE AND B STREETS

Traffic Engineer Carmody gave a brief report on the rearrangement of the traffic signals at Seventh, B and Tuolumne intersections. He was commended by the Council on the striping of street at the Kansas and 99 Highway intersection.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 11:45 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 Ordinance No. 1084-N.S. as amended, in the Council Chamber of the City of Modesto, McHenry Public Library, 14th and I Streets, Modesto.

The City Clerk called the roll and there were  
Present: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
Absent: Councilmen: M. Adams, Mellis, Merrill

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

A few moments of silent prayer were observed.

City Manager Miller being absent, Carl Millar, Assistant City Manager, acted in his place.

#### APPROVAL OF COUNCIL MINUTES

Council members having received copies of the minutes of the meetings of August 11 and 18, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### MAYOR INTRODUCE NEW PLANNING DIRECTOR TO COUNCIL

The new Planning Director of the City of Modesto, George H. Smeath, was introduced to the Council by Mayor Marks.

#### GRANT PERMISSION TO HOLD STYLE SHOW IN MANCINI BOWL TO SPONSORS-MERCHANTS ASSOCIATION AND THE MODESTO BEE

Richard Penny and J. A. Shorthill, representing the Modesto Retail Merchants Association, appeared before the Council to request use of the Mancini Bowl in Graceda Park on Sept. 24 (Friday) to hold the annual style show sponsored jointly by the merchants and the Modesto Bee.

Mr. Penny pointed out that the show was a community affair, which had been developed over the past 4-5 year; was not commercial or political; had no advertising value for any of the participants; and no admission fee was charged.

City Attorney Grimes read a memo from Superintendent of Parks Lowrey advising that the facilities at the Bowl were adequate but that minor electrical work would be necessary, which he estimated would cost approximately \$70.00. Provisions of Resolution No. 8831-N.S. establishing policy for the use of the Mancini Music Bowl, were reviewed by the City Attorney.

Mr. Penny stated that the Modesto Bee would assume the cost of the electrical work. To a question from the City Attorney whether the association would be willing to indemnify and hold the city harmless from and against any and all costs, damages and liability arising out of the use of the bowl, Mr. Penny stated that the Association did not have this type of insurance but that the Modesto Bee would take care of this matter.

Councilman Annan suggested, to which Mr. Penny agreed, that the loud speaker would be modulated to prevent neighborhood complaints. Councilman Annan introduced

#### RESOLUTION NO. 54-277

seconded by Councilman Arata, granting permission to the Modesto Retail Merchants Association and the Modesto Bee to use Mancini Bowl for a style pageant on Friday, Sept. 24, 1954 with the provisions that the sponsors would assume the cost for the necessary extra electrical work and indemnify and hold the city harmless from and against any and all costs, damages and liability arising out of the use of the Mancini Bowl, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Merrill, and Mellis

LETTER FROM MILTON T. FLUEGER, A.I.A. RE: CITY HALL AND CIVIC CENTER PRO-  
 JECTS

A letter from Milton T. Flueger, A.I.A. regarding the proposed city hall and civic center was read and ordered filed with other offers from architectural firms, to be considered by the Council Committee.

LETTER FROM W. NEWLON GREEN A.I.A. AND GEORGE S. ERSKINE RE: BUILDING NEW  
 CITY HALL

A letter from W. Newlon Green and George S. Erskine regarding the building of a new city hall was read and ordered filed.

LETTER FROM CITY OF SANTA BARBARA

A letter from the City of Santa Barbara acknowledging receipt of resolution with regard to appointment of Robert H. Shelton as Chief Administrative Officer was read and ordered filed.

NOTICE FROM FRANK ANDREWS OF INTENTION TO CIRCULATE A PETITION REGARDING THE  
 CITY OF MODESTO TAKING OVER THE PRESENT ELECTRIC SYSTEM AND DISTRIBUTING ITS  
 OWN POWER

A copy of a Notice of Intention to Circulate a Petition within the city limits "Title Shall the City of Modesto Take over the Present Electric System and Distribute its own power" was filed by Frank Andrews. He stated that the Notice of Intention was filed as a protective measure in case the officials of the Modesto Irrigation District refused to consider meeting with the City Hall Committee appointed by the Mayor. It will also make it possible, he stated, to have it placed on the November Election, thus saving the expense of a special election.

Mayor Marks commended Mr. Andrews for his endeavor to save the taxpayers money but suggested that the offer for a combined city hall and M.I.D. office should come from the M.I.D. as a governmental agency does not have the right to say to a private agency "come in with us". No action was taken by the Council on the communication.

AWARD BID ON MOTOR GRADER TO ALLIED EQUIPMENT COMPANY

Tabulation of the seven bids received for the furnishing of a motor grader, which had been opened at 2 P.M. August 23, were considered by the Council. Director of Public Works Ray stated that the bid of \$11,990. of the Allied Equipment Company on a Adams-440 grader met the specifications and the mechanical operation had certain advantages. He stated that this equipment was presently leased by the city and since the date the bid was received an additional rental payment of \$450.00 had been made which could be deducted from the bid, which would make the total cost to the city of \$11,540.

Councilman Annan introduced

RESOLUTION NO. 54-274

seconded by Councilman R. Adams, accepting the bid of Allied Equipment Company of \$11,540.00 for an Adams-440 model motor grader, as it met the specifications and was mechanically more reliable, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis and Merrill

HEARING ON CLOSING AND ABANDONING A PORTION OF ALLEY IN BLOCK 728

Mayor Marks declared the hearing open on the proposed vacation and abandonment of a portion of the alley in Block 728 (Elks Building). The City Clerk reported that no written protests had been filed. No oral protests were filed. Mayor Marks declared the hearing closed.

Councilman Arata introduced

## RESOLUTION NO. 833-S.P.

seconded by Councilman R. Adams, ordering and declaring the vacation and abandonment of that portion of the alley located in Block 728, as set forth in the resolution, reserving and excepting from said vacation a permanent easement and authorizing the recording with the County Recorder, a certified copy of this resolution, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, Merrill

FINAL ADOPTION OF ORDINANCE NO. 1139-N.S. LEASE AT AIRPORT TO UNITED STATES NAVY

Ordinance No. 1139-N.S. entitled: "AN ORDINANCE APPROVING THE LEASE OF CERTAIN AIRPORT PROPERTY TO THE UNITED STATES OF AMERICA AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH", having been heretofore introduced and ordered printed and published at the regular meeting of August 25, 1954, Councilman R. Adams moved, seconded by Councilman Annan, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, Merrill

ACCEPT STREETS AND ALLEYS AND EASEMENTS AS SHOWN ON THE FINAL MAP OF THE COEY TRACT ON BEHALF OF THE PUBLIC FOR PUBLIC USE

Upon the recommendation of the City Attorney Councilman Arata introduced

## RESOLUTION NO. 54-275

seconded by Councilman R. Adams, accepting the streets and alleys and easements as shown on the final map of the Coey Tract on behalf of the public for public use, and authorizing the recording of a certified copy of this resolution in the office of the County Recorder, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, Merrill

AUTHORIZE USE OF FORMER DISPOSAL AREA DURING EMERGENCY

The City Attorney presented for Council consideration a resolution providing for the emergency use of the old municipal dump area. Councilman Annan introduced

## RESOLUTION NO. 54-276

seconded by Councilman Arata, establishing the former municipal dumping area south of the Tuolumne River as an alternate site for the disposal of garbage as may be necessary or desirable, as determined by the City Manager, which

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resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, Merrill

ACCEPT CONSTRUCTION OF SANITARY SEWER IN BLOCKS 733, 743, 6002, and 6056  
 FROM CONTRACTOR TED SWINFORD CONSTRUCTION COMPANY

A report was filed by the Director of Public Works that the final work had been completed by Ted Swinford Construction Company on the construction of sanitary sewer in Blocks 733, 743, 6002, and 6056, in accordance with the contract, which was awarded by the Council on July 7, 1954. He recommended acceptance of the work, payment of amounts as due and filing of the Notice of Completion with the County Recorder. Councilman Arata introduced

RESOLUTION NO. 54-278

seconded by Councilman R. Adams, accepting the construction of sanitary sewer in Block 733, 743, 6002, and 6056 from contractor Ted Swinford Construction Company, authorizing payment of amounts as due and filing of Notice of Completion with the County Recorder, as recommended by the Director of Public Works, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, and Merrill

ACCEPT CONSTRUCTION OF SANITARY SEWER ON COLDWELL AVENUE BETWEEN ALLEY IN  
 BLOCK 803 AND TULLY AVENUE FROM CONTRACTOR STANDARD MATERIALS INC.

A report was filed by the Director of Public Works, that the final work on the construction of sanitary sewer on Coldwell Avenue between alley in Block 803 and Tully Avenue, had been completed by contractor, Standard Materials Inc. in accordance with the contract which was awarded by the City Council on July 21, 1954. He recommended acceptance of the work, payment of amounts as due and recording of Notice of Completion with the County Recorder. Councilman R. Adams introduced

RESOLUTION NO. 54-279

seconded by Councilman Annan, accepting the work as completed by contractor, Standard Materials Inc., on the construction of sanitary sewer on Coldwell Avenue between alley in Block 803 and Tully Avenue, authorizing payments as due and recording of Notice of Completion with the County Recorder, as recommended by the Director of Public Works, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis and Merrill

APPROVE APPROPRIATION TRANSFER FROM GENERAL RESERVE TO MUSIC AND PROMOTION  
 OF \$500 ALLOCATED TO THE JUNIOR CHAMBER OF COMMERCE

Councilman Arata introduced

RESOLUTION NO. 54-280

seconded by Councilman Annan, approving appropriation transfer of \$500 from the General Reserve to Music & Promotion, Miscellaneous Promotions for the Junior Chamber of Commerce to share in the program to bring the Junior Chamber International headquarters to Modesto, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, and Merrill

APPROVE APPROPRIATION TRANSFER FROM GENERAL RESERVE TO TRAFFIC ENGINEER--  
 CAPITAL OUTLAY OF \$700 FOR TWO TRAFFIC COUNTERS

Councilman Arata introduced

RESOLUTION NO. 54-281

seconded by Councilman R. Adams, approving appropriation transfer of \$700 from the General Reserve to Traffic Engineer, Capital Outlay to provide for two additional traffic counters necessary to complete study of traffic conditions in Modesto, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, and Merrill

OVERRULE PROTESTS AGAINST WORK TO BE DONE IN IMPROVEMENT DISTRICT NO. 2

Councilman R. Adams introduced

RESOLUTION NO. 831-S.P.

which was seconded by Councilman Arata, overruling protests and objections of every kind or nature filed against the work to be done in Improvement District No. 2, except those protests which were made on the ground that the property owners within the district had the right to construct sewers under Ordinance No. 1070-N.S. and which latter protests were sustained, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, Merrill

RESOLUTION FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF SANITARY SEWER LATERALS AND FURNISHING OF STREET LIGHTING MATERIALS IN IMPROVEMENT DISTRICT NO. 2 THAT THE SPECIAL ASSESSMENT INVESTIGATION, LIMITATION AND MAJORITY PROTEST ACT OF 1931 SHALL NOT APPLY AND THAT SUCH PROJECT SHALL PROCEED UNDER THE TERMS AND PROVISIONS OF THE IMPROVEMENT ACT OF 1911

Councilman Arata introduced

RESOLUTION NO. 832-S.P.

seconded by Councilman Annan, finding and determining that the public convenience and necessity require the construction of sanitary sewer laterals and furnishing of street lighting materials, supplies, appliances and appurtenances in Improvement District No. 2, 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, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams, Mellis, and Merrill

**RESOLUTION OF INTENTION TO AMEND RESOLUTION OF INTENTION NO. 242 AND PLANS AND SPECIFICATIONS WITH RELATION TO THE WORK TO BE DONE IN IMPROVEMENT DISTRICT NO. 2**

Councilman Annan introduced

**RESOLUTION OF INTENTION NO. 244  
RESOLUTION NO. 830-S.P.**

seconded by Councilman Arata, deleting from the work to be done in Improvement District No. 2 certain areas outlined in the resolution because said areas have arranged to install sewers under the provisions of Ordinance No. 1070-N.S. or they are isolated areas to which extensions can be made at a later date without inconvenience and providing for payment of cash assessments or assessments of less than \$25.00 to be collected upon the tax roll, setting the date of Sept. 15, at 4:00 P.M. in the Council Chamber, McHenry Library, 14th & I Street, as the time and place for the hearing of protests, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mayor Marks  
NOES: Councilmen: None  
ABSENT: Councilmen: M. Adams, Mellis, Merrill

**APPLICATION OF MODESTO MOTOR BUS SERVICE REFERRED TO TRAFFIC ENGINEER FOR INVESTIGATION AND RECOMMENDATION**

Attorney E. W. Lacy appeared before the Council on behalf of Willis Kleinenbroich, operating the Modesto Motor Bus Service, stating that Mr. Kleinenbroich had filed an application with the Public Utilities Commission to take over the two routes discontinued by the Modesto Transit Company and was applying for discontinuance for two of his own routes---#3 and #4. He outlined the area served by these routes and stated the financial loss to Mr. Kleinenbroich for the past 13 months had been approximately \$7,000. If these two routes (#3 and #4) are discontinued, Mr. Lacy stated, sufficient personnel and equipment will be available to take over the two routes of the Modesto Transit Company. Mr. Kleinenbroich has planned to change one of his routes to pick up some of the traffic formerly served by route #4, he stated. Mr. Lacy asked the Council to adopt a resolution expressing approval of Mr. Kleinenbroich's application to insure prompt action by the Commission.

In the discussion by the Council it was brought out that 1) it was incumbent on the part of the city to see that a public utility operated at a profit but that once a franchise was granted it precluded the possibility of anyone else coming into the city who might give more service to the public, and 2) that it was a matter of policy to determine in granting a franchise of this nature whether the needs of the city were being served.

It was agreed by the Council that action on the request of Mr. Lacy be delayed for a week until Traffic Engineer Carmody had an opportunity to investigate and make a recommendation.

The City Manager Pro Tempore was instructed to notify the Public Utilities Commission that prompt action on the application was desirable but that it was being referred to Traffic Engineer Carmody for his investigation and recommendation to the Council at its next meeting.

**REPORT ON USE OF LOTS 12-13 BY SALAS BROS. FOR PARKING LOT**

A chronological report of the facts in the development of lots 12-13 Block 580, by Salas Bros. Mortuary, which is located in a residential zone, as a parking lot for its business located in a commercial zone across the alley in lots 14-18 inc. Block 580, was filed by the Planning Commission, a copy of which is on file in the office of the City Clerk.

This report pointed out that the early discussions related to the paving of the alley and that the curb cut permit was issued on lots which

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are zoned commercially, although the curb cut was actually installed on a residential lot. When a request was made for a permit to build the fence on the residential lot, Chief Building Inspector Hermida learned that it was proposed that the lot be used for parking. Mr. Hermida immediately advised Salas Brothers by letter that while it was legal to construct a fence it would be illegal to use the area for a parking lot. The fence was built and the lot paved after this written notice that the use of the residential lot for parking purposes would be illegal. A copy of Mr. Hermida's letter and a copy of the curb cut permit were included with the report.

Mr. Fred Salas stated that after approval by the Planning Department he had contacted the Public Works office as directed and that the grading of the lot, improvement of the adjoining alley and the lowering of the sewer line in the alley was all done under the supervision of this department. Since the development had been under the supervision of the city, he contended, he was unaware that he was violating the zoning ordinance.

The City Attorney pointed out, 1) that the permit for a curb cut had been issued for lots 14-18 in Block 580, which is located in a commercial zone, 2) that the Public Works Department is not always aware of the zoning restrictions in the city, and 3) the check point should be at the time of the issuance of the curb cut permit.

Director of Public Works Ray pointed out that in his contact with Mr. Salas only the grading of the alley and the realignment of the sewer line which was located in the alley was discussed. He was advised at this time, Mr. Ray continued, that he could not park cars on lots 12 and 13.

Chief Building Inspector Hermida stated that the proposed use of the lot as a parking lot had been discovered by his office at the time the house had been removed from the lot without the necessary permit.

The City Attorney stated that the following alternatives were available:

1. Mr. Salas file with the Planning Director a request for rezoning of lots 12-13, Block 580 from residential to commercial
2. Council start procedure to recommend to the Planning Commission that the present zoning ordinance be amended to adopt the provision of the new proposed ordinance which provides that the Planning Commission may issue a use permit for parking in a residential area which is adjacent to a commercial area.

It was brought out in the discussion that this type of parking should be encouraged to take cars off the street. It was also pointed out that the adoption of the new zoning ordinance would take approximately six months and that an amendment to the present ordinance could be completed within 60 days.

It was moved by Councilman R. Adams, seconded by Councilman Arata and unanimously carried that the Planning Director be instructed by the City Manager Pro Tempore to present to the Planning Commission at its meeting of September 7th, the serious consideration of amending the present zoning ordinance to include the use of private parking on lots located in a residential zone adjoining a commercial area.

Mayor Marks notified Mr. Salas that it would not be permissible to use the parking lot until this had been cleared.

#### REPORT ON JOINT CITY-COUNTY LIBRARY OPERATION

Acting City Manager Millar reported that although the current county library budget provided for the operation of the McHenry Public Library in

accordance with the arrangements agreed to by both the city and county in January, that Mr. Hane, County Administrator, had been instructed by the Board of Supervisors not to proceed on this basis until agreements for the maintenance of city prisoners and health finances had been jointly resolved.

An attempt has been made in the past few days to resolve the immediate problem at the library, he stated, which involves five employees who were to have been transferred from the city to the county payroll as of August 31st.

At a meeting of administrative officials of the city and county held on August 31, the possibility of an interim arrangement for the financing of the library was discussed as well as other city-county fiscal relationships.

Both Mayor Marks and Councilman Annan stated they were of the opinion that the joint meeting held on January 29, at which time the county indicated its approval of the proposal of County Librarian Hamilton's for the joint operation of the library, had definitely concluded discussion of the library operation, and that it was not to be considered with the other joint operations. Councilman Annan contended that the fact the county had placed a sum of money in its library budget for this purpose was recognition of the fact that it had agreed to the proposal. He stated that at the joint meeting held with the board a few months ago regarding the operation of the jail, at which time the cities made an offer, the Board indicated unwillingness to give a final decision at that time.

Whether the Board had agreed to discuss and solve the various joint operations separately or as a whole was discussed by the Council at this time but no conclusion was agreed upon.

The Acting City Manager stated that the Board contended that its approval was contingent on the solution of the other operations, that there was no official signed documents from any public agency---just three sheets of paper with some facts and figures on them.

Councilman R. Adams, stated that he had been under the impression that although the library was discussed and the program submitted, and it was agreed in principle by both the Council and the Board, it was only placed on the shelf until the other items on the agenda were thoroughly discussed and some definite arrangements were made. The jail was the second item on the agenda. We pointed out in our early negotiations with the board, Modesto was the only city that was paying. Our position, as the Council committee, with the board was that we felt that the jail situation was one that was county-wide and Modesto did not want to be penalized any more than any other city. It should be uniform with all other cities. The question of the cost of the health services, would be considered later, he stated.

It was brought out in the discussion that the County had advised the city, prior to the adoption of its tax rate, that the library operation was not cleared.

The City Attorney recommended that the Council committee work out an interim arrangement with the county and clear with other cities in the county on the jail problem.

Acting City Manager Millar suggested that the solution of the joint operations be conducted on the Council-Board level instead of the administrative level, as had been done in the past.

Librarian Hamilton pointed out that there never had been a meeting of minds on the joint operations. He referred to the minutes of the January 29, 1954 joint county-city meeting, which indicated that the county wished to discuss the other operations along with the library.

He stated that he had continually pointed out to the city administrative staff, since the joint meeting in January, that unless the jail problem was worked out prior to the fiscal year that the thing which has happened, would happen-- the freezing of the county library funds. He pointed out that the city's position looked to the county to be hiding behind the other cities in the county in the solution of the jail problem, was unfair since 90% of the jail problem was the concern of the City of Modesto". He suggested that further discussions be conducted on the council-board level. He pointed out that the position the city had taken on the county garbage disposal area had strained the city-county relationship.

Councilman R. Adams, pointed out that at the meeting held with the County and City committees and members of the grand jury, jail costs were discussed and he had expressed desire on behalf of the city to make definite arrangements before the budget period. From this meeting, he stated another meeting was held which was attended by representatives from other cities in the county and an offer made to the board, which the board indicated it would take under advisement. Since that date, he stated, no other conferences were held and it had been his impression that the suggested financial arrangements were acceptable to the county.

Mayor Marks pointed out that the viewpoint of the city has always been "we want to pay our fair share of the load". After the real facts have been assembled by the administrative staff and the proper share of the expenses known, he stated, the city is willing to pay its share. It was suggested that the council as a whole should meet with the board after a meeting had been held with representatives from other county cities so that the solution would be on a county-wide basis and that a further report be made next week. Since the city budget did not provide funds to pay the five personnel who were to be transferred to the county payroll as of August 31, it was agreed by the Council that the city would assume the payroll cost for a period of two weeks until arrangements could be cleared, and Librarian Hamilton was instructed to retain these employees

#### PRELIMINARY REPORT BY TRAFFIC ENGINEER CARMODY ON STREET DEFICIENCY STUDY

Traffic Engineer Carmody presented for Council information a preliminary map showing the street deficiencies in the city, which, he stated, was still subject to revision upwards. There are 122 miles of city streets, 17.4 miles of these streets should be widened and 28.3 miles should be resurfaced, making a total of 45.7 miles of deficient streets. Six bridges should be widened. He estimated the approximate cost to widen the four bridges which were located on city streets to be \$2,000,000 and the cost to improve the 45.7 miles of deficient streets to be approximately \$2,000,000 which must be financed locally. Construction of badly needed storm sewers in certain parts of the city would increase the cost to approximately \$6,000,000. He stated that some streets were deficient the day they were built.

#### NOTIFICATION FROM STATE REGARDING PUBLIC HEARING ON FREEWAY

A notification was received from Frank B. Durkee, Director of Public Works, that a public hearing would be held by the California Highway Commission at 10:00 A.M. Friday, Sept. 24, 1954, in the City, at a location to be announced later, on the routing of a freeway on U.S. 99 through the City of Modesto.

#### COPIES OF FORWARD MODESTO COMMITTEE RECOMMENDATIONS BOOKLET TO BE PLACED ON NEWS STANDS

Acting City Manager Millar exhibited the posters which would be displayed at the city's news stand on Sept. 9, advertising copies of the Forward Modesto Committee's recommendations entitled: "FORWARD MODESTO", which would be sold at a nominal charge.

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 6:35 P.M.

  
ATTEST: REX E. GALFUS, CITY CLERK

The Council of the City of Modesto met in regular session this date at 7:30 P.M., in the Council Chambers, 14th & I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were

Present: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: M. Adams

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

The invocation was given by Rev. Arthur Brohm, Jr. of the Grace Lutheran Church.

City Manager Miller being absent on vacation, Carl Millar, Assistant City Manager acted in his place.

LETTER FROM VERNON GANT RE: USE OF NINTH STREET BY THE TIDEWATER SOUTHERN RAILWAY

A letter from Attorney Vernon Gant relating to the use of Ninth Street by the Tidewater Southern Railway was referred to the City Manager.

LETTER FROM MELLIS AND STOCKTON RE: PETITION TO VACATE EASEMENT--TOM AND DOROTHY GIAHOS

A letter from Attorneys Mellis and Stockton enclosing a petition from Tom and Dorothy Giahos to vacate an unused easement in the Fox Tract, was ordered referred to the City Manager for investigation and recommendation.

LETTER FROM FRANK ANDREWS

A letter, dated Sept. 7, 1954, from Frank Andrews protesting to the manner in which his former letters to the Council had been reported in the Modesto Bee, was read and ordered filed.

LETTER FROM A/2C JAMES HILL JR.

A letter from A/2C James Hill Jr. stationed at Camp Crawford, which is located 6 miles from the city of Sapporo on the Northern most island of Japan, Hokkaido, expressing appreciation for a book which he had found in the Post Library contributed by residents of Stanislaus County, was read. The Acting City Manager was instructed to acknowledge receipt of the letter.

COPY OF LETTER TO FORWARD MODESTO COMMITTEE FROM CENTRAL CALIFORNIA ART LEAGUE RE: LONG RANGE PLANS

A copy of a letter sent to the Forward Modesto Committee by the Central California Art League, complimenting the committee "for its long-range plans to make Modesto an example of the best in urban and country living", was read and ordered filed.

NOTE FROM C. M. FULKERTH RE: BOOK "THE CITY FIGHTS BACK"

A note from C. M. Fulkerth to Mayor Marks regarding Hal Burton's new book "The City Fights Back" was read. Mayor Marks suggested that a copy be purchased for use of the Council.

REQUEST FROM MODESTO INVESTMENTS, INC. TO NAME PRIVATE STREET IN MCHENRY VILLAGE--MCHENRY WAY

A request from the Modesto Investments, Inc. asking for approval of its proposal to name a private street in front of the new medical building in McHenry Village, McHenry Way, was read and referred to the City Manager for investigation and report.

ACCEPT BID OF M. J. RUDDY & SON FOR IMPROVEMENT OF TULLY AVENUE BETWEEN  
PRINCETON AVENUE AND CECIL WAY

Copies of the tabulation of the bids received for the improvement of Tully Avenue between Princeton Avenue and Cecil Way, which had been opened at 2 P.M. in the City Clerk's office, Sept. 7, 1954, were distributed to members of the Council for their consideration by Assistant Director of Public Works Fredricksen. Mr. Fredricksen recommended that the low bid of \$6,978.00 submitted by M. J. Ruddy & Son be accepted. Councilman Merrill introduced

RESOLUTION NO. 54-282

seconded by Councilman Arata, accepting the bid of M. J. Ruddy & Son for the improvement of Tully Avenue between Princeton Avenue and Cecil Way of \$6,987.00, as recommended by the Assistant Director of Public Works, as it was the lowest bid received, and authorizing the execution, by designated city official, of a contract for the completion of the work, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
NOES: Councilmen: None  
ABSENT: Councilmen: M. Adams

ORDINANCE PROVIDING FOR THE SALE OF SURPLUS USELESS AND UNCLAIMED PERSONAL  
PROPERTY

Councilman Arata moved the introduction and passage to print of

ORDINANCE NO. 1141-N.S.

entitled: "AN ORDINANCE PROVIDING FOR THE SALE OF SURPLUS, USELESS AND UNCLAIMED PERSONAL PROPERTY," which motion being duly seconded by Councilman R. Adams, was upon roll call carried and the ordinance ordered printed and published by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
NOES: Councilmen: None  
ABSENT: Councilmen: M. Adams

REPORT BY TRAFFIC ENGINEER CARMODY ON APPLICATION OF WILLIS KLEINENBROICH,  
dba MODESTO MOTOR BUS SERVICE TO PUBLIC UTILITIES COMMISSION FOR FRANCHISE  
FOR PASSENGER AND STAGE SERVICES

Traffic Engineer Carmody filed a report on his investigation of the application of the Modesto Motor Bus Service to institute service to the LaLoma, Airport and South Modesto areas and the application to discontinue service to parts of the Northwest and Southwest areas of the city. A copy of this report is on file in the office of the City Clerk.

Mr. Carmody pointed out that the merchants considered the installation of bus stops in front of their stores as good business and suggested that more stops be installed on Tenth Street in the near future.

Since only 2% of the population is using the present bus system, he recommended that a promotional campaign be instituted. He pointed out that during the recent white elephant sale conducted by the merchants when free rides were furnished, four times as many people rode the buses as on an average day.

Maps showing the bus routes recommended by Mr. Carmody were discussed. He stated that 10 buses would be required to serve the city, which would call for six more buses than Mr. Kleinenbroich proposed to use in his operation. The proposed plan would double the headways on certain buses and bring more people to using the buses.

The reason advanced by Mr. Kleinenbroich for the discontinuance of routes 3 and 4---that they were not profitable---should not be the controlling

factor, he stated. He pointed out that all public utilities lost money on certain operations. He recommended that the present bus service period from 6:15 A.M. to 5:45 P.M. be extended, especially on Thursday nights when the stores remained open. Mr. Carmody's conclusions were as follows:

1. That the service as proposed by Mr. Kleinenbroich leaves a very substantial area near Enslin and Graceda Parks without bus service;
2. That previously the bus companies operated a combined service with 7 buses, three by the Modesto Transit Company and four by Modesto Motor Bus Service and that Mr. Kleinenbroich now proposes to take over with only 4 buses, three less than the city had before;
3. That the routes should lead directly from the residential sections to the downtown area without long loop or feeder lines which require transfers.

Modesto will not have a successful transit operation, he stated, until a plan similar to the one recommended in this report is adopted.

Mr. Kleinenbroich pointed out that in considering a program for mass transportation for Modesto it must be understood that Modesto is not a normal city in all regards. When it rains, he stated, riders using the buses should increase but that is not true in Modesto, business falls off from 40 to 60 riders a day. He stated that he had tried various direct routes which had not proved satisfactory. No matter what type of bus service is offered, the people in Modesto within 1-1½ miles of the business center will not support it. He was forced to go out into the fringe area, he stated, in order to get sufficient business to maintain his operation. Regardless of whether the P.U.C. approved his application, he would be forced to discontinue routes 3 and 4 in order to stay in business. In order to get passengers he had found it necessary to stay off the main streets except in the business district since drivers in private cars would pick up people and bring them into town. He pointed out that people living near McHenry Avenue could use the Oakdale-Riverbank bus, which made 6 trips over McHenry Avenue during a 12 hour period, if route 4 was discontinued. Since the federal housing project had been discontinued on Franklin and California streets, route 3 had been unprofitable. He would only have two passengers on each trip most of the times.

He pointed out that his plan for circling around the courthouse was to meet another bus so that passengers could transfer without walking across the street. Loop service is the only type of service that he had found suitable for Modesto type of residential districts. Shuttle service as proposed by Mr. Carmody was fine for a city which was not laid out like Modesto with the business district in the center. He stated that he would be forced to discontinue operations on the new routes after 90 days if the residents did not support them.

Mr. Carmody suggested that some type of zone operations be considered where the fee would be 7¢ for the first certain number of blocks and 15¢ for a longer distance.

Mr. Kleinenbroich estimated the cost for equipment for anyone starting business on the plan proposed by Mr. Carmody to be approximately \$50,000 and a reserve of \$100,000 would be needed until such time as the public became adjusted to using the transportation system. He stated from his viewpoint that it would be impossible to operate a system as recommended by Mr. Carmody. He expressed willingness to cooperate with Mr. Carmody in changing some of his routes at a later date to serve the public in a better manner, if shown by experience to be feasible, and if possible eliminate some of the looping of the routes.

Mayor Marks stated that the city was faced with two alternatives, 1) take Mr. Kleinenbroich's offer to give us a second rate bus service or 2) risk the chance of being without any service by refusing his offer. It

appears in this case, he stated, that the city will have to settle for "one-half a loaf of bread" and accept this offer.

Councilman Merrill moved that Mr. Kleinenbroich's application on file with the P.U.C. be approved by the Council providing that he would work with Traffic Engineer Carmody to determine the best routes feasible.

The City Attorney pointed out that the application to the P.U.C. must set forth the specific routes. A general discussion was held on the best manner to handle the situation, since Mr. Kleinenbroich had indicated willingness to make changes recommended by Mr. Carmody, and the need for the additional routes was urgent. It was agreed by the Council that the application on file with the P.U.C. should be approved, as is, and later an amendment to the routes be asked for by Mr. Kleinenbroich from the P.U.C. Councilman Merrill withdrew his motion.

Councilman Merrill introduced

RESOLUTION NO. 54-283

seconded by Councilman R. Adams, recommending to the Public Utilities Commission of the State of California that the application of Willis M. Kleinenbroich for a Certificate of Public Convenience and Necessity to operate passenger stage service over the routes requested in his application be approved and that it be granted without the conducting of a public hearing so that applicant may commence to furnish passenger stage service to the areas as promptly as possible, that the City Clerk be directed to transmit a copy of this resolution to the P.U.C. and to Willis M. Kleinenbroich, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams

HEARING ON ESTABLISHING BUILDING LINES ON WEST SIDE OF MCHENRY AVENUE FROM GRISWOLD AVENUE TO MODESTO IRRIGATION DISTRICT LATERAL #3

Mayor Marks declared the hearing open on the proposed amending of Zoning Ordinance No. 700-N.S. to adopt a building lines map establishing building lines on the west side of McHenry Avenue between Griswold and M.I.D. Lateral No. 3 as fifty feet from the center line of the street.

The City Clerk reported that no written protests had been filed. No oral protests were made. Mayor Marks declared the hearing closed.

Councilman Annan moved the introduction and passage to print of

ORDINANCE NO. 1140-N.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N.S. AS AMENDED BY ADOPTING A BUILDING LINES MAP RELATING TO MCHENRY AVENUE BETWEEN GRISWOLD AVENUE AND M. I. D. LATERAL NO. 3", which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams

REQUEST BY A. M. McNEIL FOR CITY TO "TOP" TREES IN EASEMENT REAR OF 311 LALOMA AVENUE

A. M. McNeil, 311 LaLoma Avenue, filed a request with the Council that the city "top" the 3-4 Eucalyptus trees located in the five foot easement in the rear of his property. The request was referred to the City Manager.

APPROVE AGREEMENT WITH CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY-SEWER LINE EASEMENT

City Attorney Grimes outlined the terms of an agreement with the Central Pacific Railway Co. and the Southern Pacific Company relating to the sewer line easement built by the Pacific Fruit Express to serve its plant on Tully Avenue at N 99 Highway.

Councilman Mellis introduced

RESOLUTION NO. 54-284

seconded, by Councilman Annan, approving agreement with the Central Pacific Railway Co. and Southern Pacific Railroad Company for the sewer line easement, authorizing its execution by designated city officials and authorizing payment of \$25.00 consideration for said easement, and directing the City Clerk to record it, when executed, in the office of the County Recorder, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams

AUTHORIZE PURCHASE OF USED MIC-O PARKING METERS FROM CITY OF FRESNO

The Traffic Engineer reported that he had investigated and recommended the purchase of used one hour and two hour Mic-O parking meters which the City of Fresno had offered for sale. He reported that since the City of Fresno was replacing all its meters with an automatic type of meter that there would be approximately 300 meters ultimately available for purchase at \$7.50 each.

Councilman Mellis introduced

RESOLUTION NO. 54-285

seconded by Councilman Arata, that the City Manager be authorized to purchase 200 used one-hour and two-hour Mic-O parking meters from the City of Fresno at \$7.50 each, f.o.b. Modesto, which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams

SET DATE FOR HEARING OF REQUEST OF JOANN'S TAXI FOR TWO ADDITIONAL TAXICAB PERMITS

A request was filed by Agnes Chandler, operating Joann's Taxi for two additional taxicab permits. Councilman R. Adams introduced

RESOLUTION NO. 54-286

seconded by Councilman Mellis, setting 8:00 P.M., Sept. 22, 1954, in the Council Chambers, as the time and place for the hearing on the application of Mrs. Chandler for two additional taxicab permits, as provided by Ordinance No. 1053-N.S., which resolution was regularly adopted by the following vote:

AYES: Councilmen: R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: M. Adams

FURTHER CONSIDERATION OF CITY-COUNTY FISCAL RELATIONS RELATING TO LIBRARY AND JAIL OPERATIONS

A further report on the city-county fiscal relations on the joint library operation and the county charge to cities for care of city prisoners at the county jail and county road camp was filed by Acting City Manager Millar, a copy of which is on file in the office of the City Clerk. A general discussion was held on the recommendation of Mayor Marks that the Council, as a body, meet with the Board of Supervisors in open public session next Monday or Tuesday during the regular board meeting to endeavor to resolve finally the jail and the library operation.

Mr. Millar stated that he had checked by phone today with some of the cities in the county regarding the jail problem. One city indicated its willingness to have Modesto proceed with negotiations but when final arrangements were to be considered by the Board, it wished to be represented.

Mr. Grimes suggested that the other cities be notified if Modesto was considering meeting with the board next Monday and invite them to participate in the negotiations.

Councilman Mellis moved, seconded by Councilman Merrill that the Council as a whole, together with representatives from other cities, meet with the Board of Supervisors at 2:00 P.M. Monday, Sept. 13, 1954, to discuss the joint fiscal relations and to determine the intention and wishes of the county.

Mayor Marks recommended that the discussion be confined to the two joint operations only--jail and library.

Councilman Mellis contended that the city should know its position with the county relating to the basic services to which the people of the city are entitled as tax payers, that each Supervisor should go on record as to his feelings in this matter. He stated that if other subjects came up during the discussion that they should be discussed.

At the suggestion of the City Attorney, Councilman Mellis changed the wording of his motion to "that Acting City Manager Millar contact the Clerk of the Board of Supervisors to determine whether the discussion of the joint operations could be placed on the Agenda for the regular Board of Supervisors' meeting of Monday, Sept. 13," which motion was unanimously carried.

AUTHORIZE PARTICIPATION OF MODESTO BAND IN WELCOME HOME CELEBRATION FOR MODESTO RED BASEBALL TEAM AND HOME DEFENSE DAY PARADE

Councilman Annan suggested that the City of Modesto honor the Modesto Reds Baseball team for having won the California League pennant. He suggested that the team be met at the depot, when the special train arrived on Friday at 1:15 P.M. by the Modesto Band and a luncheon be arranged for the team.

He also recommended that the Modesto Band be asked to parade in the Home Defense Day celebration to be held on Sunday, Sept. 12th. He suggested that the Council consider paying the band \$150 for its participation in these two events.

Councilman R. Adams, moved, seconded by Councilman Merrill, and it was unanimously carried, that the Acting City Manager be instructed to make arrangements with the Modesto Band to participate in the Welcome Home celebration for the Modesto Red Baseball team on Friday, Sept. 10 and the Home Defense Day parade on Sept. 12, for a consideration of not more than \$150 and to arrange for a luncheon for the team.

Councilman R. Adams moved, seconded by Councilman Merrill and it was unanimously carried, that Mayor Marks be authorized to welcome the Modesto

Reds Baseball Team at the depot on behalf of the City of Modesto.

Councilman Arata moved, seconded by Councilman Merrill and it was unanimously carried, that Friday, September 10th be proclaimed by Mayor Marks as Modesto Reds Champion Day, and that the citizens be urged to meet the special train to welcome the team.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Annan, and it was unanimously carried that the meeting now in session adjourn. The meeting was adjourned at 9:15 P.M.

  
ATTEST: REX 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., in the Council Chamber, at the McHenry Public Library Building, 14th and I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. C. W. Van Camp of the First Presbyterian Church.

Acting Mayor Merrill acted for Mayor Marks until his arrival at 4:21 P.M.

INVITATION FROM MODESTO EMPLOYEES' ASSOCIATION TO COUNCIL MEMBERS TO ATTEND AND ASSIST IN THE FIRST ANNUAL OPEN HOUSE OCTOBER 1.

A letter from the Modesto Employees' Association inviting the Council members to be present and to assist with the welcoming of guests at the City Hall in connection with the first annual Open House program between the hours of 4:00 and 9:00 P.M. October 1, was read.

Ed Ames, President of the Association, appeared before the Council and extended a personal invitation.

Acting Mayor Merrill thanked the association for its invitation, and asked City Manager Miller to make arrangements with members of the Council at a later date for their participation in the program.

PETER RUFFINO REQUESTED INSTALLATION OF FIRE HYDRANTS AND TRAFFIC SIGNAL IN LALOMA AREA

Mr. Peter Ruffino appeared before the Council and on his own behalf as well as the merchants in the LaLoma area and asked Council consideration in the near future to install a large water main in the commercial area in the LaLoma Addition so that fire hydrants could be installed. His reason being, he stated, for this request was to enable the merchants to benefit from a reduced fire rate. He also requested that a traffic signal be installed at the corner of Yosemite Blvd. and Santa Cruz.

The City Manager reviewed the action taken by the city in endeavoring to secure approval and financial support from the State for the installation of a traffic signal at this intersection or a series of signals on Yosemite, whichever would be the least expensive. He assured Mr. Ruffino that his requests would be studied and suggested that Mr. Ruffino get a group of the merchants in the area together for a meeting with the city administrative staff to discuss the problems in this area.

HEARING ON IMPROVEMENT DISTRICT NO. 2

Acting Mayor Merrill declared the public hearing open on the consideration and final determination on the changes in the work proposed to be done under Resolution of Intention No. 242 and in the plans and specifications for said work in Improvement District No. 2 and the hearing of protests by interested persons in connection with said changes and deletions.

The City Clerk reported that no written protests had been filed. No oral protests were filed.

The hearing was declared closed by Acting Mayor Merrill.

Councilman Arata introduced

RESOLUTION NO. 834-S.P.

seconded by Councilman Annan, amending the plans and specifications for the work and improvement and Resolution of Intention No. 242 with respect to the work to be done by decreasing the work as set forth in the resolution and finding that no protests, written or oral or objections of any kind or nature were filed with the Clerk or heard by the Council against the changes and decreases ordered, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Pro Tempore Merrill

Noes: Councilmen: None

Absent: Mayor Marks

Councilman R. Adams introduced

RESOLUTION NO. 835-S.P.

seconded by Councilman M. Adams, establishing the general prevailing rate of per diem wages for each type of craft or workmen needed to execute or perform the necessary work or improvement in accordance with the schedule appended to the resolution and ordering that the schedule of per diem wage rates be embodied in the notice inviting sealed bids and all contract documents in connection with said work and improvement in Improvement District No. 2, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill

Noes: Councilmen: None

Absent: Mayor Marks

Councilman Arata introduced

RESOLUTION NO. 836-S.P.

seconded by Councilman Annan, ordering the work and improvement, as set forth and described in Resolution of Intention No. 242, as amended (Improvement District #2); declaring the boundaries of the assessment district and the grades to which said work and improvements are to be constructed to be those set forth in said Resolution of Intention No. 242; and setting the date of October 4, 1954, at 2:00 P.M. in the office of the City Clerk, as the time and place to open the bids for said work and improvement, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Pro Tempore Merrill

Noes: Councilmen: None

Absent: Mayor Marks

Mayor Marks arrived at this time (4:21 P.M.)

LETTERS FROM UNIVERSITY OF CALIFORNIA AND GOVERNMENTAL AFFAIRS INSTITUTE RE: VISIT OF RENE DIJLOUD TO MODESTO

Letters from Charles S. Gordon, Program Officer of the Bureau of International Relations of the University of California and the Governmental Affairs Institute, expressing appreciation for the hospitality extended to Rene Dijoud, sub-perfect of Cherbourg, France, on his recent visit in this country, were read and ordered filed.

PROTESTS TO DISCONTINUANCE OF BUS SERVICE DISCUSSED

The City Manager reported that D. A. Crane, 1000 Hackberry Avenue and Mrs. Paul Mantarro, 720 W. Fairmont Avenue, had orally protested to the discontinuance of Route 4 bus service by the Modesto Motor Bus Service, and stressed the importance of the City maintaining the right to take any action necessary at any time to assure satisfactory bus service.

Mayor Marks pointed out that at the time the Council approved Mr. Kleinenbroich's application for the discontinuance of Routes 3 and 4, it was brought out that "it was better to have half a loaf than none at all". This action taken by the Council, he stated, would not preclude the consideration by the Public Utilities Commission of additional service by another company.

Councilman Arata left the meeting at this time.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR LALOMA AREA SANITARY TRUNK SEWER

Councilman Annan introduced

## RESOLUTION NO. 54-287

seconded by Councilman M. Adams approving the plans and specifications for the construction of LaLoma Area Sanitary Trunk Sewer and authorizing the calling for bids, said bids to be opened Friday, Oct. 1 at 2:00 P.M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Arata

Councilman Arata returned to the meeting at this time.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS ON SANITARY SEWER LATERALS IN NORTH CENTRAL ADDITION

Councilman M. Adams introduced

## RESOLUTION NO. 54-288

seconded by Councilman R. Adams, approving the plans and specifications for the construction of sanitary sewer laterals in North Central Addition, and authorizing the calling for bids, said bids to be opened in the City Clerk's office at 3:00 P.M. Oct. 4, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

FINAL ADOPTION OF ORDINANCE NO. 1140-N.S. - ADOPTING BUILDING LINES MAP RELATING TO McHENRY AVENUE BETWEEN GRISWOLD AVENUE AND M.I.D. LATERAL NO. 3

Ordinance No. 1140-N.S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N.S., AS AMENDED, BY ADOPTING A BUILDING LINES MAP RELATING TO McHENRY AVENUE BETWEEN GRISWOLD AVENUE AND M.I.D. LATERAL NO. 3", having been heretofore introduced and ordered printed and published at the regular meeting of September 8, 1954, Councilman Mellis moved, seconded by Councilman R. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

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FINAL ADOPTION OF ORDINANCE NO. 1141-N.S. PROVIDE FOR THE SALE OF SURPLUS USE-  
LESS AND UNCLAIMED PERSONAL PROPERTY

Ordinance No. 1141-N.S. entitled: "AN ORDINANCE PROVIDING FOR THE SALE OF SURPLUS, USELESS AND UNCLAIMED PERSONAL PROPERTY", having been heretofore introduced and ordered printed and published at the regular meeting of September 8, 1954, Councilman R. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

PROGRESS REPORT ON CAPITAL IMPROVEMENT PROGRAM

The City Manager reported that the Planning Department had been asked to prepare a report for Council consideration on the approximate costs and the basis on which to proceed on various capital improvement projects.

FURTHER DISCUSSION ON OFFER OF HORACE DRYDEN TO DEDICATE LAND FOR 18 HOLE  
GOLF COURSE

Mayor Marks suggested in order to break a dead-lock in the negotiations with Mr. Dryden on the gift of 50 acres to the city for an 18 hole golf course and to assure the intention of the city to develop the course that the agreement be redrafted to provide that the city would agree to spend \$50,000 toward the development of the 18 hole course within a year after the execution of the agreement, to guarantee the completion of the course. He recommended that City Attorney Grimes be authorized to contact Vernon Gant, Counsel for Mr. Dryden and make this offer on behalf of the city.

Councilmen Mellis, Merrill and Arata recommended that before this offer was made that definite information be obtained by the City Manager on the costs and additional acreage needed.

The City Manager suggested that the agreement might be redrafted to provide that Mr. Dryden dedicate the land to the city providing the city would expend \$50,000 toward the development of the course within one year, thus the city would avoid any immediate obligation. He pointed out that the cost of the additional land could be considered a part of the \$50,000 "guarantee".

The fact that Mr. Dryden would be tied up for one year on the disposal of the property was brought up.

City Attorney Grimes pointed out the advantage of developing the 18 hole golf course program simultaneously with the program for the development of the present 9 hole golf course as a recreational area.

Suggestions that 1) the City Manager secure options on the additional acreage within the week and 2) that a request be made through Counsel Gant to hold the offer open for a 30 day period were discussed. Final agreement was reached on the suggestion that a 90 day option be requested from Mr. Dryden.

Councilman Mellis moved, seconded by Councilman R. Adams that the City Attorney be instructed to contact Mr. Dryden's counsel and request that a 90 day option be granted the city on the offer of the 50 acres of land by Mr. Dryden.

ACCEPT GRANT DEED FROM EDGAR LANDES AND EVA LANDES (ALLEY IN MCHENRY VILLAGE REAR OF MEDICAL CENTER)

The City Attorney presented for Council consideration, a grant deed from Edgar and Eva Landes on a portion of land in the McHenry Village to be used for alley purposes; (rear of medical center). Councilman R. Adams introduced

RESOLUTION NO. 54-289

seconded by Councilman Arata, accepting the grant deed from Edgar and Eva Landes and authorizing the recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DISCUSSION OF OFF-STREET PARKING PROGRAM

A resolution adopted by the Parking Authority at its meeting of Sept. 14th relating to the off-street parking program was read by City Attorney Grimes. The Authority requested the Council amend Resolution No. 54-59, adopted by the Council Feb. 17, 1954, to delete Section 1A, entitled "Private Participation" and the second paragraph of Section I relating to joint responsibility of public and private interests in off-street parking facilities.

Mayor Marks pointed out that Modesto was not the same city as when Resolution No. 54-59, setting forth the basic principles to govern the activities of the Parking Authority in conducting an expanded off-street parking program, was adopted; due to the fact approximately 7 weeks ago the city amended the sales tax ordinance increasing the tax from one-half percent to 1% to provide funds for capital improvement projects. Until the city had an adequate capital improvement financial program the Council did not have the moral right to give nor the merchants in the business area the moral right to "ask for a non participation program". He expressed approval of the request of the Authority for deletion of provision for private participation in the development of the parking lots. He pointed out that if the funds to be derived from the additional one-half% sales tax were deposited in the general fund to defray the operating expenses of the city that it would reduce the general tax rate 70¢. He pointed out that no opposition was expressed by the merchants in the down town area to the increased sales tax. He also pointed out that the assessed valuation of the downtown business area was approximately 25% of the total assessment roll and it could be considered that this area was indirectly contributing 25% toward the parking program. He called attention to the administrative and legal difficulties and the high costs involved in improvement districts, as demonstrated by the recent Improvement District #2 proceedings, which involved an area where the majority was in agreement that sewers and lights were needed. He stated that if a program was developed on an improvement district basis that there would be much dissatisfaction from the residential property owners still living in the older homes in the fringe business area. The possibility of the program, which had already been "wrestled around for three years" being bogged down for 3-5 years more was brought out by Mayor Marks.

Councilman Mellis pointed out that the sales tax was being paid by the public and not by the business men. He expressed misgivings of the job that was being done by the Authority forcing the public to pay for the parking lots which would benefit the merchants. He expressed the opinion that the only way an adequate program could be developed was by letting the businessmen realize that they had to provide their own parking facilities.

Mayor Marks asked and received permission to read the following statement:

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## WE NEED A BOLD PROGRAM FOR PARKING

"Many cities have attacked the parking problem boldly". This is the first sentence in the foreword to a report "Parking--How it is Financed". Significantly, this report, which is a summary of how twenty-seven communities throughout the country have financed off-street parking, is published by the National Retail Dry Good Association.

We have made progress in Modesto. But I am concerned lest we attack this problem too timidly and it swamps us. The above quotation has prompted me to urge that we take whatever action is necessary to see that Modesto is included among those cities which attack this problem boldly.

We should take into account the relative roles which can be played in the solution of this problem by improved mass transit, private parking facilities, public parking facilities, and reasonable requirements for provision of parking in new developments--as provided in the proposed zoning ordinance. We need to compare and consider the costs of the relative degrees of relief which can be obtained through the use of these means. I would like also to suggest joint consideration by the Parking Authority, the City Council, and representatives of business and of the public generally of the desirability of placing on the April, 1955, ballot a proposal for revenue bonds. I am convinced that if such a proposal is based on a sound, equitable, bold program to "get on top" of our parking problem it would be approved by the voters. I am also convinced that whatever private participation may be necessary to assure the success and adequacy of the program will be forthcoming if the program is wisely developed and fully understood. If it is possible to put the program on a completely self-liquidating basis from the revenues which can be allocated to it, I believe this should be done. The need for and the degree of private participation must finally be determined by the "financial facts of life" as they relate to the provision of parking facilities.

I personally would propose and support such a program with private participation to the extent of 25% or more if this is required to make it financially sound and equitable; I would support it without private participation if it can be demonstrated that it can be completely self-liquidating.

A publicly-owned parking facility is a capital improvement of permanent value to the community. Since provision has now been made to assure other urgently needed capital improvements, intensive, urgent attention can and should be given to a bond program for providing this important type of capital improvement. If consideration is to be given to the possibility of a revenue bond proposal in April, 1955, prompt action should be taken, since the time is short.

I have a copy of the report "Parking--How It Is Financed", to which I have already referred and which I recommend to all of you. I also have a summary of an Urban Traffic Forum, composed of representatives of architecture, the automotive industry, city planning, department stores, government, transportation, parking and traffic, published in the Architectural Forum for February, 1953, which gives thirteen answers to how cities can save their down-town districts from strangling in their own congestion. We already have the congestion in Modesto, but prompt, bold action on our part will prevent the strangulation."

Councilman Arata stated that he concurred with the recommendations of Mayor Marks 100%.

Councilman Mellis objected to the Mayor's statement that the business district was indirectly participating due to the fact the assessed valuation was 25% of the assessment roll. If the program is not big enough with the 75% participation by the city, then it should be up to the merchants to furnish the rest, he stated. He questioned the wisdom of the Parking Authority, without studying the whole program, in buying land in the wrong places.

Councilman M. Adams, questioned whether a report on the parking program in relation to the expansion on a participation basis had been completed by Traffic Engineer Carmody. He pointed out that this had been one of the reasons a Traffic Engineer had been hired. He stated that before he would make any decision on the matter that he would like to see this report.

Mayor Marks pointed out that he was not talking about dollars and cents but a bold plan for solving the parking problem. He stated that so far Modesto had been able to hold its down-town area but unless a program was adopted soon and not allowed to drag on for 3-5 years it could happen. He pointed out that an improvement district would involve many hours of work by the city administrative staff.

The City Attorney pointed out that the Authority had been unsuccessful in its attempt to purchase business property for parking on a deferred payment basis.

Councilman M. Adams pointed out that since no public funds were presently available, it would be impossible for the city to put up 75% of the funds required for an improvement district program. He stated that he considered the private participation provision was undesirable now since the city had a financial program for capital improvements since the adoption of the increased sales tax ordinance.

Councilman Mellis objected to "tying the sales tax up with the parking program since parking had no relation to capital improvements."

Mayor Marks introduced

RESOLUTION NO. 54-290

seconded Councilman Arata, that Resolution No. 54-59 adopted February 17, 1954 by the Council be amended to delete Section 1A, entitled "Private Participation" and the second paragraph of Section 1 which states,

"The provision of off-street parking facilities is the joint responsibility of public and private interests. In order that such interest shall meet its responsibilities, the financing of an expanded parking program shall be implemented as follows:"

be deleted.

Before the vote was taken, Councilman Annan moved, seconded by Councilman M. Adams, that action be deferred for one week on the request of the Parking Authority.

It was brought out in the discussion that deferring action might have some bearing on the execution of a pending lease with L. W. Zimmerman for one of the buildings located on the new Eleventh Street Parking lot, which was still undeveloped. The lease which is for an 18 months period, Mayor Marks stated, has already been signed by Mr. Zimmerman. If this lease is executed by the Authority, it would delay the development of this property for approximately 2-2½ years.

Roll call on the motion introduced by Councilman Annan was as follows:

Ayes: Councilmen: M. Adams Mellis, and Annan  
Noes: Councilmen: M. Adams, Arata, Merrill and Mayor Marks

Councilman M. Adams stated that "the city is not any further ahead on its parking program than it was 3 years ago. To clear the atmosphere, let the people decide what they want for a parking program at an election. If they turn it down the city will have to do the next best thing." Page 7

Mayor Marks moved to amend his resolution to add the following: "Be it further resolved that the people of the community have an opportunity to vote in the general election to be held in April, 1955, on whether or not there is to be a revenue bond financing program for the solution of the parking problem of the city". The amendment to the resolution was seconded by Councilman Arata. The roll call on the amendment to the resolution was as follows:

Ayes: Councilmen: Annan, R. Adams, Arata, Merrill, Mayor Marks  
 Noes: Councilmen: M. Adams, Mellis  
 Absent: Councilmen: None

The roll call on the resolution as amended introduced by Mayor Marks and seconded by Councilman Arata was as follows:

Ayes: Councilmen: R. Adams, Annan, Arata, Merrill and Mayor Marks  
 Noes: Councilmen: M. Adams and Mellis  
 Absent: Councilmen: None

Councilman M. Adams stated that the reason he had voted "no" was because the matter was not clear in his mind.

CITY MANAGER REPORT ON PUBLIC HEARING ON ROUTING OF A FREEWAY ON U.S. 99 THROUGH MODESTO TO BE HELD BY CALIFORNIA HIGHWAY COMMISSION

The City Manager reported that advice had been received from Frank B. Durkee, Director of Public Works that the public hearing scheduled by the California Highway Commission with respect to the routing of a freeway on U.S. 99 through the City of Modesto would be held at 10 A.M. Friday, September 24, 1954, in the Stanislaus County Center No. 3 Auditorium on Scenic Drive at the Old Oakdale Road.

It was agreed by the Council that Mayor Marks would appear at the hearing and present for the record a copy of Resolution No. 54-179 entitled: "A RESOLUTION RELATING TO THE LOCATION OF THE MODESTO FREEWAY" which had been adopted at the Council meeting of June 16, 1954.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried that the meeting now in session adjourn.

  
 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 Ordinance No. 1084-N.S., as amended, in the Council Chamber at McHenry Public Library, 14th and I Streets.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill,  
and Mayor Marks  
Absent: Councilmen: None

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 meetings of August 25, September 1 and 8, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### APPLICATION OF UNITED CRUSADE TO ERECT BILLBOARD SIGN ON COURTHOUSE GROUNDS

City Manager Miller stated that an oral request had been filed by the United Crusade to erect a billboard sign in the Courthouse grounds, during the fall drive for funds. He pointed out that Ordinance No. 1113-N.S. permitted the erection of a sign of this nature providing approval had been given by the City Council. Councilman R. Adams moved, seconded by Councilman Mellis and it was unanimously carried, that permit be granted to the United Crusade to erect and maintain a sign in the Courthouse Grounds during the present drive for funds, providing structural safety regulations are complied with.

#### LETTER FROM DICK USTICK RE: HAZARDOUS TRAFFIC CONDITION AT INTERSECTION OF MAGNOLIA AVENUE AND MORRIS AVENUE

A letter from Dick Ustick regarding the "hazardous traffic condition at the intersection of Magnolia Avenue and Morris Avenue", was read and referred to Traffic Engineer Carmody for investigation and report.

#### LETTER FROM FRANK ANDREWS RE: HISTORIC FILMS OF STANISLAUS COUNTY AND CITY OF MODESTO

A letter from Frank Andrews was read, requesting a donation of \$600 to be used to restore and make new prints of historic films of Stanislaus County and the City of Modesto. His plan was to show the films over the new Television Station KOVR and at a theater to help in the Stanislaus County Centennial Celebration and to save the films for posterity.

In the general discussion the Council asked Mr. Andrews if he would arrange for the Council to actually see the films before deciding. He was unwilling to do this. It was suggested to Mr. Andrews that he contact the members of the Centennial Committee and request a donation for this project.

#### REQUEST OF MODESTO OPTIMISTS CLUB TO USE THE MUNICIPAL BALL PARK FOR A CIRCUS ON OCTOBER 7, 1954.

A letter was read from the Modesto Optimist Club requesting permission to use the Municipal Ball Park on October 7, 1954 to put on the Ruddy Brothers Circus. The Club requested that all license fees be waived since the club was a non-profit organization and funds derived from the show were used in its program devoted to furthering boys activities. A letter from the Modesto Reds Baseball Club agreeing to the use of the park on this date by the Club was also read. Ed Lacy appeared on behalf of the Club and presented the plans for the circus.

The City Attorney stated that this type of activity would be exempt  
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from the provisions of the general business licensing ordinance.

Councilman Arata introduced

RESOLUTION NO. 54-291

seconded by Councilman Merrill, granting permission to the Modesto Optimists Club to use the Municipal Ball Park on October 7, 1954 to hold the Ruddy Brothers Circus, under the supervision of the Director of Parks and Recreation and providing the club submit written evidence that the city will be held harmless from and against any and all costs, damages, and liability arising out of the holding of said circus, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

Mr. Lacy stated that the Club would assume the responsibility that the premises were cleaned up after the show.

Mayor Marks asked Mr. Lacy to convey the Council's appreciation to the club for the fine job it was doing with the boys of the community.

ORDINANCE ADOPTING THE MUNICIPAL CODE

City Attorney Grimes presented for Council consideration the first Municipal Code of the ordinances of the City of Modesto since its incorporation on September 6, 1884. The need for a codification of the city's approximately 1500 ordinance was urgent, he stated, since a large number had been repealed or superceded--others were invalid or obsolete. Many of the ordinances had been amended so many times that it was difficult to determine the law on a given subject. He outlined the scope of the code, numbering system used, indication of the source of each section of the code, disposition of all existing ordinances and the index and table of contents.

Special acknowledgement should be made to the various officers and employees of the city, he stated, who reviewed drafts of the code and offered suggestion, and to Miss Dorothea Maloney who had been hired on a contractual basis to do the stenographic and secretarial work. He stated that if the city had hired independent counsel to complete the work that it would have cost approximately \$6-7,000.

He stressed the responsibility the Council would assume in the repealing of the ordinances as provided in the ordinance adopting the code. He suggested that the Council members could review the three official copies of the code which would be on file in the office of the City Clerk before the final adoption of the ordinance adopting the code on October 6th.

He outlined the procedure for keeping the official copy of the code in the office of the City Clerk up to date at all times, which would be the duty of the City Clerk. He recommended that a loose leaf type of binder be adopted so that additional pages could be added whenever future changes were made.

He pointed out that since a complete revision of the law on both the traffic and zoning regulations was contemplated in the near future that the ordinances relating to these subjects had not been codified but had been continued in effect pending their revision or repeal.

The City Manager commended City Attorney Grimes for his magnificent job on the code and stated that "it was a step forward in the business of the city." He stressed the importance of the code to all the administrative

staff of the city and to the general public.

Councilman Mellis commended Mr. Grimes also and moved the introduction and passage to print of

ORDINANCE NO. 1142-N.S.

entitled: "AN ORDINANCE ADOPTING A MUNICIPAL CODE FOR THE CITY OF MODESTO, PRESCRIBING CERTAIN PENALTIES FOR VIOLATION OF THE PROVISIONS THEREOF, AND REPEALING CERTAIN ORDINANCES", which motion was duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

The City Attorney stated that he estimated the cost for the printing of 500 copies of the code would be approximately \$5-6,000 and for a loose leaf type of binder to be approximately \$4.00 each, making a total cost for a copy of the code to be approximately \$15.00. He recommended that at first only 100 binders be purchased.

It was agreed by the Council that the city should assume a portion of the cost of the code, so that copies could be made available to the public at a more reasonable price. A price of \$10.00 was suggested and met with general approval, with a nominal annual service charge of approximately 50¢ or \$1.00. Final decision was deferred until costs were determined.

APPROVE SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR PRINTING OR LITHOGRAPHING OF THE MODESTO MUNICIPAL CODE

Specifications for the printing or lithographing of the code were briefed by the City Attorney. Councilman Annan introduced

RESOLUTION NO. 54-292

seconded by Councilman M. Adams, approving the specifications for the printing or lithographing of the Modesto Municipal Code, and authorizing the call for bids, said bids to be opened in the office of the City Clerk at 2:00 P.M. on October 5, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

HEARING ON REQUEST OF AGNES J. CHANDLER, DBA JOANN'S TAXI FOR TWO ADDITIONAL TAXICAB PERMITS

This being the time set for a public hearing on the request of Agnes J. Chandler, dba Joann's Taxi for two additional taxicab permits, Mayor Marks declared the hearing open.

Police Chief Neel reported that on September 16, Mrs. Chandler had been arrested under section 647.5 of the California Penal Code charged with vagrancy. He reported that she had not been brought to trial as yet but that on the basis of information that he would recommend that the request be denied. No oral protests were filed. Mayor Marks declared the hearing closed.

Councilman Mellis introduced

## RESOLUTION NO. 54-293

seconded by Councilman M. Adams, denying the request of Mrs. Agnes J. Chandler for two additional taxicab permits, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

CONSIDERATION OF RECOMMENDATION OF POLICE CHIEF RE: CANCELLATION OF TAXICAB CERTIFICATE-JOANN'S TAXI

Police Chief Neel asked the Council whether they wished to be briefed on the facts relating to the arrest of Mrs. Agnes Chandler in order to come to some conclusion as to the revoking of her certificate of public convenience and necessity to operate a taxi in the city. Mayor Marks asked for the facts to be furnished the Council.

Attorney Frank Damrell objected to Police Chief Neel briefing the Council on these facts on the premise that it would be hearsay and would be prejudicial to his client. He pointed out that the only matter before the Council at this time was the public hearing on the application of his client for two additional taxicabs, which had already been cleared. Under the State and Federal Constitution, when a charge is filed a person is presumed to be innocent until it is proved otherwise in a court of law. He stated that it was the recognized practice when a person had been arrested for liquor law violation that his license was not revoked or suspended until he had been tried and found guilty. If Mrs. Chandler's certificate is to be revoked, he stated, it should be done in a proper and recognized manner. He pointed out that this Council meeting was not the place to try this case.

City Attorney Grimes concurred in Mr. Damrell's statement that a person is presumed innocent until proved guilty.

Mayor Marks withdrew his request to Police Chief Neel to relate the facts relating to Mrs. Chandler's arrest.

Mr. Damrell pointed out that Mrs. Chandler's permit to operate a taxicab had already been revoked by the Police Chief and she had severed her operation with the cabs.

City Attorney Grimes reviewed the provisions of Ordinance No. 1053-N.S. relating to suspension and revocation of certificates and questioned whether there was grounds for revocation of her certificate at this time. However, he stated, if Mrs. Chandler was convicted in a court of law, there would be ample grounds for the revocation of her certificate. He pointed out that since she was no longer driving a cab she was not jeopardizing the "public health and safety" of the people of the community. He stated that he believed any action by the Council on the revocation of Mrs. Chandler's certificate at this time would be premature. Upon the recommendation of the City Manager, Councilman M. Adams moved, seconded by Councilman Arata, that no action be taken on the revocation of Mrs. Chandler's certificate of public convenience and necessity to operate a taxicab in the City of Modesto at this time, which was unanimously carried.

ORDINANCE APPROVING LEASE OF A PORTION OF THE AIRPORT TO WILSON NURSERY

The City Attorney presented for Council consideration an ordinance providing for the leasing of a portion of the airport property to the Dave Wilson Nursery for the growing of roses for a two year term. Councilman Arata moved the introduction and passage to print of

## ORDINANCE NO. 1143-N.S.

entitled: "AN ORDINANCE PROVIDING FOR THE LEASE OF CERTAIN CITY OWNED AIR-PORT PROPERTY TO THE DAVE WILSON NURSERY AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS ON PAVING MATERIALS FOR FISCAL YEAR

Specifications for the furnishing of paving materials for the fiscal year were briefed by Director of Public Works Ray. Councilman M. Adams introduced

## RESOLUTION NO. 54-294

seconded by Councilman Annan, approving the specifications for the paving materials for the fiscal year 1954-55 and authorizing the calling for bids, said bids to be opened in the office of the City Clerk, October 5, 1954, at 2:00 P.M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

SET DATE FOR PUBLIC HEARING ON PROPOSED AMENDMENT TO ZONING ORDINANCE NO. 700-N.S. PROVIDE FOR DEVELOPMENT OF OFF-STREET PARKING FACILITIES IN RESIDENTIAL DISTRICTS ADJACENT TO COMMERCIAL DISTRICTS

The Planning Commission filed a copy of its Resolution No. 161, recommending that the Council adopt an amendment to Zoning Ordinance No. 700-N.S., as amended, to provide for the development of off-street parking facilities in residential districts adjacent to commercial districts. Councilman Merrill introduced

## RESOLUTION NO. 54-295

seconded by Councilman Arata, setting the date of October 6, 1954, at 4:30 P.M. in the Council Chamber, McHenry Public Library, 14th and I Streets, as the time and place for the public hearing on the proposed amendment of Zoning Ordinance No. 700-N.S., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

FURTHER CONSIDERATION OF OFF-STREET PARKING PROGRAM

Traffic Engineer Carmody read a copy of Resolution No. 32, adopted by the City of Modesto Parking Authority, September 21, entitled: "A Resolution proposing a revised long range program for the provision of off-street public parking facilities in the City of Modesto and recommending its submission to the City Council for consideration". Attached to the resolution was a proposed amendment to the Charter of the City of Modesto implementing the proposed program, which the Authority requested be submitted to the electorate for its approval at the next municipal election on April 12, 1955.

A discussion was held by the Council on section 3 of the Resolution which reads:

"That if the recommended charter amendment is submitted to and approved by the electorate and revenue bonds are issued, the City of Modesto Parking Authority be retained to handle the acquisition, development, operation, and administration of all publicly owned parking facilities in the City of Modesto."

Mayor Marks recommended that the words "in an advisory capacity" be inserted after the word "retained". He stated, "I believe in the principle where if you have the responsibility, you must also have the authority. The Council would have the responsibility but not the authority if the provisions of this resolution were carried out." He reminded the Council that it had been the recommendation of the Public Administration Service when it had completed its survey of the city, three years ago, that the authority be retained in an advisory capacity.

City Attorney Grimes reported on a recent meeting of the Authority at which a representative from the firm of Stone and Youngburg, Financial Consultants, had been present, to advise and answer questions relating to revenue bond issues. After a lengthy discussion the Authority took the position that it did not wish to act in an advisory capacity but it would like to have the opportunity to continue acquiring, developing, and operating the city's off-street parking lots. It was the thinking of the Authority, he stated that no immediate action need to be taken relative to the position of the Parking Authority under the proposed bond program but that it would be advisable for legal and financial consultants to further check the proposed charter amendment which had been prepared by him.

Mayor Marks pointed out the valuable assistance which the Planning Commission had given to the Council and the city, acting in an advisory capacity only.

The City Attorney reviewed the history of the creation of the Authority, which had been set up 5-6 years ago under the provisions of a new state law, prior to the adoption of the present city charter and the new form of city government.

Councilman Mellis stated that he believed the parking program would be better administered if the Authority acted in an advisory capacity--especially since it was asking the Council to ask the electorate to vote revenue bonds in an unknown amount. He asked, "how can the people vote the money when the Council would not have control of it? The members of the Authority who are appointed would have no responsibility to the people. If we ask the people to vote the bonds they will hold the Council responsible. Since the Authority is asking the Council to ask the people to vote these bonds, it should relinquish its authority to the Council. The title of the parking lots should be in the name of the City of Modesto instead of the Parking Authority", he stated. "Divided authority in this program is undesirable."

Councilman R. Adams pointed out that it had been brought out in the programs of the League of California Cities Convention last year that bonding houses looked with disfavor on a revenue bond issue under the control of an Authority.

City Attorney Grimes recommended that the Council should not determine the matter of the functions and duties of the Authority under the proposed program until it had conferred with financial and legal consultants. He recommended that the possibility of securing financial and legal counsel advice on the program be investigated in order to enable the Council to make an intelligent decision.

Mr. Carmody pointed out that 1) only three cities, Fresno, Stockton, and Vallejo had financed their parking programs by revenue bonds and 2) an important point to consider was that the control of the program under a revenue bond basis was limited.

The City Attorney pointed out that if any charter amendment is submitted to the electorate, the Council would be the only body authorized to do it and the Council could determine the form of any amendment submitted.

The City Manager pointed out the importance of prompt action in securing financial and legal counsel assistance if the issue was to be on the ballot of the April election. He suggested that some provision of funds for this be considered.

Mayor Marks recommended that no action be taken on the Authority's Resolution No. 32 until the Council had had an opportunity to discuss the matter with financial and legal consultants and moved, which was seconded by Councilman Arata and unanimously carried that the administrative staff promptly make arrangements for legal and financial consultants to meet with the Council so that the question of a charter amendment calling for a revenue bond issue for off-street parking could be placed on the ballot of the election to be held in April, 1955.

Before the vote on the motion was taken Councilman Mellis suggested delay until the charter amendment had been studied by the members. He pointed out that there would be expense involved.

The City Attorney stated that it was possible that no expense would be involved in securing financial counsel but that some expense would be involved in securing legal counsel on the charter amendment since the Authority had not paid any fee to Stone & Youngberg to meet with the Council.

#### RESOLUTION APPROVING NEW AND ADDITIONAL ROUTES OF MODESTO MOTOR BUS SERVICE

The City Manager reviewed the opinion of the Public Utilities Commission (Decision No. 50548) on application No. 35749 of the Modesto Motor Bus Service to operate a passenger stage service over new and additional routes in the City of Modesto and environs for authority to discontinue two routes and modify one route.

Before final action is taken by the Council approving the routes, he stated, it should be pointed out that the new routes provide very limited service and it should be considered as an interim solution. Although the city will continue to assist the bus company in every way possible to make it possible for it to continue in business, the city should be at any time in a position that if better bus service is offered, it can avail itself of this service.

Mr. Kleinenbroich stated that he agreed with this premise and that he was willing to go along with suggested improvements of service and would give as much service as the public would support. He stated that he planned to run the buses until 6:15 P.M. instead of 5:45 P.M. on all nights except Thursday and then the buses would run until 8:45 P.M.

The Street Deficiency report prepared by Traffic Engineer Carmody was briefly discussed by the Council. The City Manager pointed out that something "drastic" would have to be done about the streets in the city. He stated that at the present rate of expenditure of the gas tax funds on the streets that it would take 100 years to remove the deficiencies outlined on the report. He stated that it was estimated officially that the traffic would double in this community within 20 years and the city was faced with a serious problem on streets. He stated that he was convinced that the traffic problem could not be licked by additional parking lots or improved streets entirely but that it would be necessary to provide an adequate mass transportation system and that the city should be in a position to do whatever it can do and needs to do to improve mass transportation at all times. He pointed out the possibility that there might be a time when it would be necessary for the city to subsidize the transportation system.

Councilman Merrill introduced

RESOLUTION NO. 54-296

seconded by Councilman R. Adams approving the routes of the Modesto Motor Bus Service, as set forth in that certain document entitled "Application For Approval Of Change In Passenger Stage Routes and Schedules" filed in the City Clerk's office September 22, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

AUTHORIZE APPROPRIATION TRANSFER FOR PURCHASE OF PARKING METERS

Upon the recommendation of the City Manager, Councilman Annan introduced

RESOLUTION NO. 54-298

seconded by Councilman Merrill, approving appropriation transfer of \$1,545.00 from the General Reserve to Public Works Department--Parking Meters Division for the purchase of used parking meters from the City of Fresno as provided by Resolution No. 54-285 adopted by the Council on September 8, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE AGREEMENT WITH SCHOOL DISTRICTS FOR NURSING SERVICES

Agreement relating to the furnishing of nursing services by the City of Modesto to the Modesto City School District, Modesto High School District and the Modesto Junior College District for a period of beginning September 1, 1954, and ending July 1, 1955, was presented for Council consideration. Health Officer Landquist briefed the provision of the agreement which called for a payment to the city of a total amount during the term of the agreement not to exceed the sum of \$18,761.00, and allowed the schools the right to participate in the formulation of policies relating to the nursing service program. Councilman R. Adams introduced

RESOLUTION NO. 54-300

seconded by Councilman Mellis, approving the agreement and authorizing execution by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

APPROVE AFTER-SCHOOL RECREATION PROGRAM AGREEMENT WITH MODESTO CITY SCHOOL DISTRICT

Agreement between the City and the Modesto School District for an after-school recreation program for a term commencing September 27, 1954, and extending to June 10, 1955, was presented for Council consideration. Councilman Mellis introduced

RESOLUTION NO. 54-301

seconded by Councilman R. Adams, approving the agreement and authorizing execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE RENEWAL OF LEASE WITH D. E. AND CARL W. SHANNON FOR CITY ATTORNEY'S OFFICE

The City Attorney presented for Council consideration lease agreement between the City and D. E. and Carl W. Shannon for the leasing of the City Attorney's office at 925 12th Street. He stated that the renewal of the lease was for a year commencing October 6, 1954 and provided for a monthly rental of \$75.00, which was an increase of \$10.00. Councilman Merrill introduced.

RESOLUTION NO. 54-297

seconded by Councilman M. Adams, approving the lease agreement and authorizing execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RESOLUTION DESIGNATING FREIGHT LOADING ZONE ON TWELFTH STREET BETWEEN B AND D STREETS

Upon the recommendation of Traffic Engineer Carmody, Councilman Arata introduced

RESOLUTION NO. 54-302

seconded by Councilman Merrill, establishing a freight loading zone along the southwesterly side of Twelfth Street, between B and D Streets and directing the Traffic Engineer to mark the above location in accordance with the provisions of this resolution and section 31 of Ordinance No. 345-N.S., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE CONTRACT WITH STATE DEPARTMENT OF PUBLIC HEALTH FOR FEDERAL ALLOCATIONS TO LOCAL PUBLIC HEALTH AGENCIES

Councilman M. Adams introduced

RESOLUTION NO. 54-303

seconded by Councilman R. Adams approving contract with the California State Department of Public Health for "Federal allocations to Local Public Health Agencies, and authorizing execution by designated official of the City of Modesto, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

### DISCUSS PROCEDURE FOR HANDLING TRAFFIC PROBLEMS

The City Manager reported that the traffic problems which had been held in abeyance until the appointment of a Traffic Engineer had been tabulated and numbered by Mr. Carmody, who reported that there were about 100 different traffic matters to consider.

The City Manager pointed out that there were presently a number of traffic matters on the Council's list of pending matters, such as extension of G Street as an arterial, traffic at Sunset and Fairmont, and traffic signals on McHenry Avenue and Yosemite Avenue which he had referred to Mr. Carmody. He pointed out that the solution of many of these problems would have to "take their due course of time". The Council concurred in his suggestion that they be dropped from the list of pending matters before the Council.

Council members indicated approval of the improved traffic conditions which Mr. Carmody had already accomplished at various locations throughout the city.

### FURTHER REPORT ON PACIFIC GAS & ELECTRIC COMPANY'S APPLICATION TO PUBLIC UTILITIES COMMISSION FOR AN INCREASE IN NATURAL GAS RATES

The City Manager reported that the Public Utilities Commission had sent copies of various exhibits submitted by the Pacific Gas & Electric Company in connection with application No. 35256 for an increase in gas rates. These reports, he stated had been studied by Director of Finance Lawrence, who had reported that the schedules did not show sufficient information regarding earnings and estimated returns on the proposed rates to provide a basis for evaluation of the request for rate increases.

### PROGRESS REPORT ON DOWN-TOWN LIGHTING DISTRICT

The City Manager reported that in order to get action on the downtown lighting district that the Public Works Department had assigned one of its employees full time on this district. The Chamber of Commerce committee was working with the city on the program, he stated.

A discussion was held on the specifications of the type of lights and the City Manager stated that a further report on the type of light and the restrictions on different types under an improvement district proceedings would be submitted to the Council before bids were called for.

### REPORT ON INVESTIGATION BY STATE LEGISLATIVE COMMITTEES ON PERSONAL PROPERTY TAXATION

The City Manager reported that Senate and Assembly Interim Committees were presently considering proposed legislation relating to personal property taxation. He recommended that the Council present its viewpoint to the committees as to how the legislation would affect the industrialists in the community processing and storing food products, and related matters. Councilman R. Adams moved, seconded by Councilman Arata and it was unanimously carried that the City Manager be authorized to present the city's viewpoint to the Senate and Assembly Interim Committees on proposed legislation relating to assessment of personal property as it affects local industrialists.

### REPORT ON MEETING WITH COUNTY REGARDING CITY-COUNTY JOINT OPERATIONS

The City Manager reported that agreements were being prepared by the County Counsel and City Attorney relating to the joint city-county operations--jail and library, in line with the discussion which was recently held by the Board of Supervisors and County Council.

### REPORT ON PRIORITIES FOR PLANNING PROGRAM

The City Manager reported that the City Planning Commission was meeting weekly to consider the various pending matters. He reported that

substantial progress had been made in the zoning ordinance and maps and that zoning was the #1 project. He outlined the work the Planning Department staff was doing on the capital improvement program also.

REMIND COUNCIL OF LEAGUE MEETING IN PATTERSON OCTOBER 7, 1954

The City Manager reminded the Council of the meeting of the League of California Cities, Central Valley Division, to be held in Patterson, October 7.

Councilman Mellis stated that he would attend a luncheon meeting to be held in Turlock September 27, of the City-Council Committee.

CITY ATTORNEY DISTRIBUTE COPIES OF ADDRESS GIVEN AT THE CALIFORNIA CHAPTER OF THE AMERICAN INSTITUTE OF PLANNERS IN SANTA BARBARA

Copies of a paper delivered by City Attorney Grimes at the annual meeting of the California Chapter of the American Institute of Planners in Santa Barbara, California, January 23, 1954, were distributed to Council Members.

LETTER FROM ATTORNEY VERNON F. GANT RE: DRYDEN PROPERTY

The City Attorney read a letter from Vernon F. Gant Counsel for Horace Dryden, stating that Mr. Dryden was willing to give the City of Modesto the ninety days option on the gift of the land, which it had requested.

Mayor Marks stated that he had informally discussed the 18 hole golf course with several members of the Modesto Golf Club with regard to obtaining county participation, but all were generally agreed, after the discussion that it was a city problem and not a county problem, and since the adoption of the increased sales tax ordinance that funds used to develop the course would be paid by all of the people in the area, both in and outside the City.

REPORT ON HOLIDAY PAY FOR POLICE AND FIRE DEPARTMENT PERSONNEL

The City Manager stated that a report on the status of the claims of certain firemen and policemen for holiday pay would be submitted shortly to the Council for its study.

DISCUSS CITY HALL BUILDING

The City Manager reported that the Director of Finance was completing a report on methods of financing the city hall building which will be submitted shortly for Council consideration. He stated that a letter had been drafted to be sent to the various architectural firms who had expressed interest in the City Hall building so that their experience and qualifications could be determined. This would be sent as soon as it could be checked with the Council Committee.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Annan and it was unanimously carried that this meeting now in session adjourn. The meeting was adjourned at 10:00 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 Ordinance No. 1084-N.S., as amended, in the Council Chamber, at the McHenry Public Library, 14th & I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Absent: Councilmen: Merrill

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

Invocation was given by Rev. Paul Talbot of the Four Square Gospel Church.

CORRECTIONS IN MINUTES OF SEPTEMBER 1, 1954

City Manager Miller pointed out that in the minutes of the meeting of September 1, 1954, it had been stated that personal differences between County Administrator Hane and him had been a factor in deterring settlement on the jail problem. Mr. Miller stated that while there had been distinct differences of viewpoint that his personal relations with Mr. Hane had always been on a friendly basis and he asked that this matter be clarified in the records.

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the portion of the minutes relating to personality differences be expunged from the record of the Council meeting of September 1, 1954.

At the request of Librarian Hamilton, Councilman Mellis moved, seconded by Councilman R. Adams and it was unanimously carried, that lines 4-7, paragraph one, of page nine of the minutes of the Council meeting of September 1, 1954, be changed to read:

"He pointed out that the city's position looked to the county to be hiding behind the other cities in the county in the solution of the jail problem, was unfair since 90% of the jail problem was the concern of the City of Modesto".

LETTER FROM JAMES M. GREENING, SECRETARY-CENTRAL VALLEY DIVISION LEAGUE OF CALIFORNIA CITIES

A letter was read from James M. Greening, Secretary of the Central Valley Division-League of California Cities, notifying that the term of the present director, John Erreca, Mayor of Los Banos would expire at the conclusion of the League conference in Los Angeles in October, and giving notice of an executive committee meeting to nominate a candidate.

Mayor Marks delegated Councilman M. Adams to represent the City of Modesto at the executive committee meeting and recommended that Mr. Erreca be nominated as a candidate.

Councilman Mellis recommended that Mayor Marks be nominated as a candidate. Mayor Marks stated that due to pressure of other activities he did not desire to be a candidate and recommended that Councilman Mellis be named.

LETTER FROM CITY OF ALAMEDA RE: PROTESTING TO PLANS OF EXPANSION OF OAKLAND INTERNATIONAL AIRPORT

A letter from the City of Alameda with a copy of its Resolution No. 4992, "protesting the location of the proposed expansion of metropolitan Oakland International Airport and requesting the Port of Oakland to reconsider the planning and location of that project in the light of the public interest" was read. City Manager Miller was instructed to answer the communication, advising the City of Alameda that the Council did not have sufficient information to take a position.

COUNCIL TO PROTEST CHANGE IN RAKER ACT

Councilman R. Adams recommended that the Council go on record opposing the amendment of the Raker Act as proposed by Congressman Clair Engle, to remove or store 213,000 acre feet of unappropriated Tuolumne River water annually. He stated, "we should not allow anything to interfere with the interests of the people in this district in this water." He recommended that the city follow along with the position taken by the Modesto and Turlock Irrigation Districts opposing the amendment.

Councilman Mellis recommended the adoption of a resolution at this time opposing any change in the Raker Act. After a general discussion it was agreed by the Council that the City Manager and City Attorney should investigate the matter during the next week to obtain facts and reasons why the Act should not be amended to give more weight to a resolution.

Councilman M. Adams asked that this information be furnished the members prior to the next meeting for their study.

Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Attorney be instructed to prepare and present a resolution at the next meeting for Council consideration, opposing any amendment to the Raker Act.

APPLICATION TO PUBLIC UTILITIES COMMISSION FOR RATE INCREASE ANGELO BONZI-SERVICE BUS LINES

Traffic Engineer Carmody briefed application No. 35817 to the Public Utilities Commission by Angelo Bonzi, operating the Service Bus Line for an increase in passenger fare and freight fare. No action was taken by the Council.

LETTER FROM STATE DIRECTOR OF VOCATIONAL EDUCATION RE: POLICE TRAINING PROGRAM

A letter to Police Chief Neel from Wesley P. Smith, State Director of Vocational Education, commending him as Chairman of the Advisory Committee of the Central Valley Peace Officers' Zone School for the splendid program of instruction for law enforcement officers in the Central Valley, which had opened on Sept. 21 with an enrollment of 135 students, was read by the City Manager and ordered filed.

REPORT OF THE AVIATION COMMITTEE OF THE MODESTO CHAMBER OF COMMERCE

Sid Loshier and Bill Falger appeared before the Council and filed a report of the Modesto Chamber of Commerce Aviation Committee.

Mr. Loshier reported that the Chamber of Commerce received many requests for more adequate airport facilities. He stated one of the major factors in securing industries was adequate airport facilities. He pointed out that Modesto was "way down the list" in airport facilities as compared to other west coast cities of comparable size. If the facilities were adequate, he stated, a much larger volume of air freight would be shipped and more passengers would use the airport. The committee suggested that immediate action be taken by both the city and the county to, 1) meet jointly to determine the operation of a joint city and county airport, 2) immediately obtain the land or options to provide the necessary runway length, 3) determine the financial requirements, and 4) that zoning ordinances be made to provide for orderly future development. He stated that the Chamber recommended that the airport development be made a top priority by both the city and county.

Mr. Falger pointed out that none of the recommendations of the County Advisory Committee, submitted in March, 1954, to the Board of Supervisors, had been carried out.

Mr. Loshier stated that the committee had considered it best to present its report to the city first, since the airport was owned by the city and then if Council action was favorable, the report would be submitted to the

Board, with the hope that both bodies get together to solve the operation of a joint city-county airport.

Councilman Mellis pointed out that the airport was very important to both the city and county, especially the county since most of the freight shipped was from the county. He stated that the county should be willing to accept its responsibility and meet with the city on a common ground to look the program over. He moved, seconded by Councilman M. Adams, and it was unanimously carried that the Council accept the Modesto Chamber of Commerce Aviation Committee report, that the Council indicate its willingness to meet with the Board of Supervisors to discuss the airport, and that Mayor Marks be authorized to write a letter to the Board of Supervisors indicating the city's willingness to meet with them.

LETTER FROM SENATE INTERIM COMMITTEE ON HIGHWAYS, STREETS AND BRIDGES RE: REPORT ON CITY STREET DEFICIENCIES

A letter from Randolph Collier, Chairman of the Senate Interim Committee on Highways, Streets and Bridges, was read, acknowledging receipt of the city's "Survey of Critical Deficiencies-Streets and Bridges, as of July 1, 1954, prepared by Traffic Engineer Carmody, (copies of which were distributed to Council members) Mr. Collier stated that the report was one of the best received and reviewed to date by the committee.

Traffic Engineer Carmody stated that the report would be helpful in the preparation of a street directory which the Traffic Department planned to make in conjunction with the Public Works Department, showing the right of way width, pavement width, existence of curbs and type of improvement. He suggested that when the capital improvement program was considered that the report be consulted, to which the Council concurred.

The City Manager stated that the report would be studied by the Director of Public Works in line with the whole street improvement program and that he would likely come up with some proposed revised recommendations.

HEARING ON AMENDMENT TO ZONING ORDINANCE NO. 700-N.S. TO PROVIDE FOR OFF-STREET PARKING IN RESIDENTIAL DISTRICT WHEN ADJACENT TO COMMERCIAL DISTRICT

This being the time set (4:30 P.M.) for the public hearing on the proposed amendment to Zoning Ordinance No. 700-N.S. to provide for the development of off-street parking facilities in residential districts adjacent to commercial districts, Mayor Marks declared the hearing open. The City Clerk reported that no written protests had been filed. Mayor Marks asked if any oral protests were to be filed. No oral protests were filed. The hearing was declared closed by Mayor Marks.

The City Attorney presented for Council consideration an ordinance, which would amend Section 3 of Ordinance No. 700-N.S. relating to permitted uses in residential areas to permit

"Parking lots in an area immediately adjacent to a Neighborhood Business District (C-L) or a Central Business District (C-2) subject to the securing of a use permit for each such use, after public hearing."

Councilman R. Adams moved the introduction and passage to print of

ORDINANCE NO. 1-C.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N.S. (ZONING) AS AMENDED BY ORDINANCE NO. 927-N.S. BY ADDING SUBSECTION (1) TO SECTION 3 (1.) THEREOF" which motion being duly seconded by Councilman Arata, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

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REQUEST BY LEAGUE OF WOMEN VOTERS FOR CHANGE IN ORDINANCE NO. 392-N.S. TO PERMIT USE OF MOBILE LOUD SPEAKERS IN THE CITY

Representatives from the League of Women Voters of Modesto appeared before the Council requesting Council consideration for the amending of Ordinance No. 392-N.S., (regulating noises on the city streets,) to enable philanthropic, educational and civic organizations to use a mobile loud-speaker system on a permit basis when engaged in activities in the public interest. They stated that the League planned to offer baby-sitting service as well as transportation service to the polls for the Nov. 2nd and Nov. 16th elections and wished to use the sound truck to notify the people of this service and to give the telephone number where this service could be arranged.

It was pointed out that the Council would be deluged with requests for permits from candidates for office and many other "worthy causes".

The City Attorney pointed out that the wording of the ordinance did not specifically prevent the operation of a mobile loud speaker on the city streets. He stated that it was his opinion that it would not be necessary to amend the ordinance to permit the use of a mobile loud speaker in the commercial area if the speaker was operated with a reasonable volume and in such a manner that it would not create a nuisance as defined by the ordinance since the resulting noise would be more or less similar with other noises created in the commercial area. However, in order to operate in a residential area it would be necessary to amend the ordinance, he stated.

It was generally agreed that the League could be permitted to operate a mobile loud speaker in the commercial areas of the city and that the ordinance should not be amended since "it might start a chain of events which could not be controlled."

COUNCIL EXTEND INVITATION TO JUNIOR CHAMBER OF COMMERCE INTERNATIONAL TO LOCATE ITS HEADQUARTERS IN THE CITY OF MODESTO

Representatives of the Modesto Junior Chamber of Commerce gave a progress report on its program to secure the Junior Chamber of Commerce International headquarters for the City of Modesto. Mr. Lew Graham stated that the organization's bulletin for the month of October had stated that Modesto's bid was the only firm bid so far. He asked that the Council adopt a resolution formally extending an invitation to the J.C.I., on behalf of the City of Modesto. Councilman M. Adams introduced

RESOLUTION NO. 54-306

seconded by Councilman Arata, extending an invitation to the Junior Chamber of Commerce International to locate its headquarters in the City of Modesto. which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

APPROVE ADD IN CENTENNIAL EDITION OF THE MODESTO TRIBUNE

Councilman Arata moved, seconded by Councilman R. Adams, and it was unanimously carried, that the placing of a one-half page add in the Centennial Edition of the Modesto Tribune, at an estimated cost of \$100, be approved.

The City Manager was directed to prepare the add for the paper.

FRANK ANDREWS REQUESTS SUPPORT OF PROJECT TO RESTORE HISTORIC FILMS OF CITY AND COUNTY

Frank Andrews asked for Council reconsideration of his request for financial support for his project to restore historic film of Stanislaus County and City of Modesto. He was advised by the Council to make arrangements for Council inspection of the film before any consideration could be given to

his request.

INTRODUCE CITY EMPLOYEES TO COUNCIL

Director of Public Works Ray introduced the newly appointed Service Division Superintendent, J. W. Rifenburg, employed in the City shop for 19 years. Mr. Rifenburg, he stated, was #1 on the list on the recent civil service tests for the position. Howard M. Parker, Construction Superintendent and J. S. Valach, Associate Engineer, recently appointed, were also introduced.

ACCEPT BID OF W. M. LYLES COMPANY ON IMPROVEMENT DISTRICT NO. 2

Copies of the tabulation of the bids received for the doing of the work and improvement in Improvement District No. 2 described in Resolution of Intention No. 242, as amended, which had been opened Oct. 4, 1954, at 2:00 P.M. were distributed by Director of Public Works Ray for Council consideration. He recommended the low bid submitted by W. M. Lyles Company of \$22,588.41 be accepted. Councilman Arata introduced

RESOLUTION NO. 837-S.P.

seconded by Councilman M. Adams, accepting the bid of W. M. Lyles Company for construction of sanitary sewer laterals and furnishing of street lighting materials for Improvement District No. 2, as recommended by the Director of Public Works, and authorizing the publication of said award in the Modesto Tribune, which resolution was regularly adopted by the following vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT BID OF CLEMENTS & COMPANY FOR PAVING MATERIALS FOR YEAR 1954-55

Tabulation of the three bids received for the furnishing of paving materials for the fiscal year ending June 30, 1955, which had been opened October 5, 1954, at 2:00 P.M. were distributed for Council consideration. The Director of Public Works recommended that the bid of Clements & Co., which was the lowest submitted, be accepted. Councilman Annan introduced

RESOLUTION NO. 54-312

seconded by Councilman Mellis, accepting the bid of Clements & Co. for paving materials for the fiscal year ending June 30, 1955, as recommended by the Director of Public Works, and authorizing the execution of a contract for the furnishing of the materials by the designated city officials, which resolution was regularly adopted by the following vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT BID OF STOCKTON CONSTRUCTION COMPANY ON LA LOMA SANITARY TRUNK SEWER

Tabulation of the eight bids received for the construction of the La Loma sanitary trunk sewer which had been opened on Oct. 1, 1954, at 2:00 P.M. were distributed for Council consideration. Director of Public Works recommended that the bid of the Stockton Construction Company of \$129,818.00, which was the lowest bid submitted, be accepted. Councilman Mellis introduced

RESOLUTION NO. 54-311

seconded by Councilman R. Adams, accepting the bid of Stockton Construction Company, as recommended by the Director of Public Works, for the construction of the La Loma sanitary trunk sewer, as it was the lowest bid received and authorizing the execution of a contract by designated city officials, for the completion of the work, which resolution was regularly adopted by the following vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks

Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT BID OF VINCENT RODRIGUES FOR SEWER LATERALS IN NORTH CENTRAL ADDITION

Tabulation of the bids received for the construction of sanitary sewer laterals in the North Central Addition, which had been opened Oct. 4, 1954, at 3:00 P.M. were distributed for Council consideration. Director of Public Works Ray recommended that Vincent Rodrigues, who was the low bidder on both Schedule A and B, totaling \$58,690.05, be accepted. Councilman Annan introduced

RESOLUTION NO. 54-310

seconded by Councilman Arata, accepting the bid of Vincent Rodrigues, for the construction of sanitary sewer laterals in the North Central Addition (Schedule A and B) of \$58,690.05, as recommended by the Director of Public Works and the execution of a contract for the completion of the work by the city's designated officials be approved, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

TRANSFER OF FUNDS TO COVER WORK IN NORTH CENTRAL ADDITION

The City Manager reported that the necessary documents would be presented later for Council consideration transferring the funds needed for the building of the sewer laterals in the North Central Addition.

LETTER FROM FRANK F. EHRENTAL RE: CITY HALL BUILDING

A letter from Frank F. Ehrental regarding the building of the proposed new city hall was ordered referred to the Council City Hall Committee.

COUNCIL COMMITTEE ON CITY HALL TO INTERVIEW ARCHITECTS AND SUBMIT LIST TO COUNCIL

Councilman R. Adams reported that the Council Building Committee had received a number of requests from architectural firms for an interview on the proposed new city hall.

It was agreed by the Council that the committee should interview all applicants and recommend three or four firms to the Council for its consideration.

DISCUSS BID PROCEDURE

At the request of Mayor Marks, Director of Public Works Ray reviewed the procedure used in calling for bids for supplies, equipment, and construction of public works projects.

Mayor Marks stated that contractors had complained to him that other cities were allowing a 5% preference on bids to local merchants.

It was pointed out that the City Charter provided that "preference be given to local merchants, quality and price being equal" and a special discount could not be allowed, unless the charter were amended.

FINAL ADOPTION OF ORDINANCE NO. 1142-N.S.-ADOPT MUNICIPAL CODE

Ordinance No. 1142-N.S. entitled: "AN ORDINANCE ADOPTING A MUNICIPAL CODE FOR THE CITY OF MODESTO, PRESCRIBING CERTAIN PENALTIES FOR VIOLATION OF THE PROVISIONS THEREOF, AND REPEALING CERTAIN ORDINANCES", having been heretofore introduced and ordered printed and published at the regular meeting of

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September 22, 1954. Councilman R. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT BID ON PRINTING OF MUNICIPAL CODE

The City Attorney reported that one bid had been received for the printing of the Modesto Municipal Code, which had been opened at 2:00 P.M., October 5th. This bid, he stated, was submitted by Willey Printing Company for \$4,326. and he recommended its acceptance. A letter had been received from Belt Printing and Lithographing Company, advising that it was unable to bid due to the scheduling of work. The City Attorney reminded the Council that this bid did not include the binder which would have to be purchased separately later on. Councilman Mellis introduced

RESOLUTION NO. 54-315

seconded by Councilman R. Adams, accepting the bid of Willey Printing Company for \$4,326.00 for the printing of the municipal code, as recommended by the City Attorney and authorizing the execution of a contract by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

The City Manager stated that the necessary documents transferring the funds from the General Reserve for this expenditure would be presented later on for Council consideration.

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR SANITARY TRUNK SEWER - TUOLUMNE RIVER CROSSING

Councilman M. Adams introduced

RESOLUTION NO. 54-309

seconded by Councilman Annan, approving the plans and specifications and authorizing the calling for bids for furnishing all materials, labor and services for the construction of sanitary trunk sewer-Tuolumne River Crossing, said bids to be opened at 2:00 P.M. October 19, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

CITY MANAGER TO NOTIFY MR. STRATTON OF THE TIDEWATER SOUTHERN RAILWAY COMPANY OF ACTION TAKEN BY COUNCIL ON SEWER LINE ACROSS TUOLUMNE RIVER

The City Manager was directed to notify Mr. Stratton of the Tidewater Southern Railway Company that the city had approved the calling for bids for the Tuolumne River Crossing sanitary trunk sewer which would serve the industrial area of the company.

MEETING TO BE HELD OCTOBER 13 WITH VALLEY CITIES RE: RELOCATION OF RAILROADS

City Attorney Grimes reported that, at the suggestion of the City of Stockton, a joint meeting would be held in Modesto Wednesday, Oct. 13, to discuss railroad problems--franchises and relocation, which would be attended by legal and planning officials. He issued an invitation to the Council members to attend the luncheon meeting.

Mayor Marks suggested that an invitation be extended to the City of

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Fresno.

Councilman Mellis suggested that the attorney hired by property owners for the relocation of the Tidewater Southern Railway Company from Ninth Street be appointed as special assistant to the City Attorney at no cost to the city to give the City Attorney more strength. The City Attorney agreed that this proposal could be explored further.

FINAL ADOPTION OF ORDINANCE NO. 1143-N.S. LEASE PORTION OF AIRPORT TO DAVE WILSON NURSERY

Ordinance No. 1143-N.S. entitled "AN ORDINANCE PROVIDING FOR THE LEASE OF CERTAIN CITY OWNED AIRPORT PROPERTY TO THE DAVE WILSON NURSERY AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH," having been heretofore introduced and ordered printed and published at the regular meeting of September 22, 1954, Councilman R. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT CONTRACT FROM STANDARD MATERIALS INC. ON SANITARY TRUNK SEWER LINES ON GRANGER BETWEEN McHENRY & HONEYSUCKLE AND ON ROSEBURG AVE.

The Director of Public Works filed a report on the completion of the contract on sanitary trunk sewer lines on Granger Avenue between McHenry & Honeysuckle, and on Roseburg at McHenry Avenue, by Standard Materials Inc., and recommended its acceptance. Councilman Annan introduced

RESOLUTION NO. 54-317

seconded by Councilman Arata, accepting the sanitary trunk sewer lines on Granger between McHenry and Honeysuckle and on Roseburg at McHenry from the contractor, Standard Materials Inc., authorizing payment of amounts as due and the recording of Notice of Completion with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT DEED FROM CLARENCE O. KEHRER AND MABEL L. KEHRER (NORTH CENTRAL SEWER LINE)

The City Attorney presented for Council consideration a grant deed from Clarence O. Kehrer and Mabel L. Kehrer relating to the North Central sewer line. Councilman R. Adams introduced

RESOLUTION NO. 54-314

seconded by Councilman Annan, accepting the grant deed dated September 15, 1954, from Clarence O. Kehrer and Mable L. Kehrer on the east 7.5 ft. of that portion of the Northeast quarter of the Northwest quarter of the Southeast quarter of Section 20, Twp 3 South, Range 9 East, M.D.B. & M (North Central sewer line) and authorizing its recording with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

AGREEMENTS APPROVED WITH PACIFIC FRUIT EXPRESS ON SEWER PIPE LINE

Termination agreement and agreement and bill of sale relating to the sewer pipe line formerly owned by the Pacific Fruit Express Company were presented for Council consideration by the City Attorney.

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Councilman Annan introduced.

RESOLUTION NO. 54-318

seconded by Councilman Arata, approving the termination agreement between the City of Modesto and the Pacific Fruit Express relating to the disposal of domestic sewage and waste water, said termination effective May 31, 1954, and authorizing execution by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

Councilman R. Adams introduced

RESOLUTION NO. 54-319

seconded by Councilman Arata, approving agreement and bill of sale between the Pacific Fruit Express Company and the City of Modesto relating to the 18 inch concrete sewer line located on land of the Central Pacific Railway Company and its lessee, Southern Pacific Co. and authorizing execution by designated city officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

BOULEVARD STOP SIGNS AT MORRIS AND MAGNOLIA AVENUES

Traffic Engineer Carmody reported on the request of Dick Ustick for traffic regulation at the intersection of Magnolia Avenue and Morris Avenue and recommended the installation of stop signs, stopping traffic entering Morris Avenue.

Councilman R. Adams introduced

RESOLUTION NO. 54-305

seconded by Councilman Mellis, establishing boulevard stop signs on the south-east and Northwest corners of Morris Avenue and Magnolia Avenue for traffic entering Morris Avenue, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

RELOCATION OF BUS LOADING ZONES ON H STREET AT TENTH STREET

Traffic Engineer Carmody recommended that the loading zone on H Street at Tenth Street be relocated since it was not long enough to serve the two buses which would be there at the same time. Councilman Arata introduced

RESOLUTION NO. 54-304

seconded by Councilman M. Adams, establishing bus loading zones on the Northwest corner of Tenth and H Streets, as set forth in the resolution, directing the marking of the said bus zones and the rescinding of Resolution No. 6370-N.S. and that portion of Resolution No. 54-264 in conflict herewith, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

DISCUSS PROPOSED CHARTER AMENDMENT RELATING TO REVENUE BONDS FOR PARKING FACILITIES

The City Attorney reported that he had contacted Orrick, Dahlquist, Herrington, & Sutcliffe, bond counsel, regarding the proposed charter amendment relating to revenue bonds for parking facilities. They have offered to render an opinion on the proposed amendment for a fee of approximately \$350.00. However, he stated, if the amendment has to be substantially redrafted, the cost would be approximately \$500.00. He stated that he had contacted Stone and Youngberg, financial consultants, who had agreed to meet with the Council to discuss the program, at no cost to the city.

The City Manager reported that R. H. Moulton, financial consultant had indicated interest in being consulted on this program, also.

It was agreed by the Council that no action be taken on these matters until after the joint meeting with the Parking Authority which was scheduled for 7:00 P.M. this date.

AGREEMENTS WITH COUNTY ON CARE OF CITY PRISONERS

Agreements with the county for the care of city prisoners in the jail and county road camp were presented for Council consideration by the City Attorney, who stated that they had been prepared along the lines informally discussed by the Board and Council at their recent meeting. Councilman Annan introduced

RESOLUTION NO. 54-307

seconded by Councilman R. Adams, approving the agreement between the City of Modesto and Stanislaus County relating to the cost of maintaining city prisoners in the county jail, which resolution was regularly adopted by the following

vote:  
 Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

Councilman Arata introduced

RESOLUTION NO. 54-308

seconded by Councilman R. Adams, approving the agreement between the City of Modesto and Stanislaus County relating to the cost of maintaining city prisoners in the county road camp, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REPORT ON AUDIT OF RECREATION DEPARTMENT

Director of Finance Lawrence reported on the recent audit of the records and accounts of the Recreation Department prior to its consolidation with the Parks Department. This audit revealed, he stated, that there were outstanding accounts totaling approximately \$1200 for merchandise and sports equipment which had been delivered and used in the recreation programs, principally the Junior League baseball teams. The uniforms for the teams, which cost approximately \$900 were furnished by two vendors, and were to have been paid for by merchants sponsoring the teams. However, the merchants sponsored teams did not materialize. These outstanding accounts were not included in the budget nor has the money been appropriated, he stated, and it will be necessary for the Council to determine whether or not the city will assume the payment of these accounts. He outlined the present purchasing procedure which would preclude any reoccurrence of this nature. He stated that each of the two merchants who sold the uniforms had agreed to sponsor one team and deduct \$60.00 each from their accounts. He recommended that the Council assume the

obligation of the account to the extent that the audit revealed that the merchandise was delivered by the merchants in good faith, and used by the city. He asked for Council approval to go ahead on that basis.

The City Manager pointed out that the past three years the accounting department has been working to prevent a reoccurrence of this thing and had tried to find all of these cases where there was a possible contingent liability. He stated that "we may not have found all of them and if others come to light they will be brought up to the Council." He stated that vendors are being continually reminded that no city employee has the authority to make any purchase without a purchase order. He stated that, "I would like to make it clear that there is no implication of lack of personal integrity in these transactions."

Councilman Mellis stated that the local merchants who furnished the materials should not be penalized and recommended that payment be made by the city since the city received and benefited from the goods.

Councilman Annan pointed out that such things often happened in private enterprise and stated that the city should be commended on the way it has handled its accounts.

Director of Finance Lawrence stated that the necessary appropriation transfer would be presented for Council consideration at a later date.

#### APPROVE AGREEMENT FOR PURCHASE OF LEAF LOADER

The City Manager reported that the Public Works Department, after approximately three years, had found a leaf loader which it believes might prove satisfactory. Wayne Manufacturing Company, manufacturing the loader, had consented to lease a loader to the city for a period of three months at \$400 per month, beginning October 15, with an option to purchase after January 15, 1955, until September 1, 1955 for the sum of \$5,132.49 less a reasonable depreciation of \$1200 making a total cost to the city of \$3,932.49. He pointed out that the lease rental agreement did not obligate the city to purchase the equipment. He stated that the equipment would be a savings of man power as well as the purchase of expensive truck equipment. Councilman M. Adams introduced

#### RESOLUTION NO. 54-313

seconded by Councilman R. Adams, approving the lease agreement with Wayne Manufacturing Company for the rental of a leaf loader and authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

#### AUTHORIZE RENEWAL OF AUTOMOBILE INSURANCE POLICY

A report on the savings on the automobile public liability and property damage insurance policy was given by Director of Finance Lawrence. He stated that the initial premium for year beginning October 13, 1954, amounted to \$6,947.19, which was a savings of approximately \$986.56, which could be attributed to the city's safety program. Councilman Mellis introduced

#### RESOLUTION NO. 54-320

seconded by Councilman Arata, approving the renewal of the public liability and property damage automobile policy with the Massachusetts Bonding and Insurance Company, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ACCEPT ANNUAL FINANCIAL AUDIT FROM C. D. NATTINGER

Councilman Annan introduced

## RESOLUTION NO. 54-321

seconded by Councilman Arata, accepting the report of C. D. Nattinger on the accounts of the City for the fiscal year ending June 30, 1954, and authorizing the Director of Finance to pay any funds due under the contract, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

APPROVE NAME OF PRIVATE STREET "MCHENRY VILLAGE WAY"

Upon the recommendation of the Planning Department, Councilman M. Adams introduced

## RESOLUTION NO. 54-322

seconded by Councilman R. Adams, naming the private road which will run directly in front of the medical building east of McHenry Village, from Granger Avenue northerly to the proposed extension of Northern Boulevard, "McHenry Village Way", which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REPORT ON ADJUSTMENT OF FIRE LOSS AT MUNICIPAL BASEBALL PARK

The City Manager reported that loss resulting from the fire which had destroyed the main grand stand at the municipal ball park on September 28, was being adjusted by the insurance companies.

Mayor Marks stated that he had appointed Councilmen R. Adams, Dan Mellis, and Dave Arata to work with the adjuster on the loss and a citizens committee of Warren Giddings, Tom Mellis, and Floyd Benson to represent the Modesto Reds Ball Team.

A general discussion was held on the possibility of relocating the ball club and including the present site in the proposed 18 hole golf course so that it would reduce the number of acres which would need to be purchased. It was agreed that Mr. William Bell, Golf Course Architect, who would be in Modesto on Monday, October 11th, should be consulted in this regard.

CITY MANAGER REPORT ON CITY EMPLOYEE'S OPEN HOUSE PROGRAM

The City Manager reported on the successful open house program which the City Employees' Association had conducted on October 1 and which had been well attended. Tours for various schools and clubs had been scheduled in advance for approximately 1000 persons.

COUNCIL MEETING SCHEDULED FOR OCTOBER 21 AT 4:00 P.M.

Due to the League of California convention in Los Angeles during the week of October 17-23, the City Manager recommended that the regular meeting of October 20th not be held and that a special meeting be held later in the week. Councilman Mellis moved, seconded by Councilman R. Adams, and it was unanimously carried, that a special meeting be called for October 21 at 4:00 P.M.

"CITY FIGHTS BACK" BOOKS PRESENTED TO CITY BY MODESTO BOARD OF REALTORS

The City Manager reported that the Modesto Board of Realtors had presented the city with three copies of the book by Hal Burton entitled:

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**"THE CITY FIGHTS BACK".****CITY OFFICIALS TO VISIT SAN JOSE TO INSPECT JOINT POLICE AND FIRE COMMUNICATION SYSTEM**

City Manager Miller issued an invitation to the Council members to accompany some of the city officials who were visiting San Jose, October 7, to inspect the joint communication system.

**DISCUSS PARK PLANS FOR OLD JOHN MUIR SCHOOL PROPERTY**

Councilman R. Adams recommended that the \$1,000 appropriation in this years budget for the improvement of the old John Muir School property as a park, be used to install a sprinkling system at this time. He stated that serious consideration should be given by the Council to appropriate some of the capital improvement money to develop the park due to the fact that it had been purchased by the city for over two years and no improvements had been made.

The Director of Parks and Recreation pointed out that the complete plans for the development of the property as a park would be completed within two months.

A discussion was held on whether the installation of a sprinkling system at this time would fit in with the over-all plans for the park. It was recommended that Mr. Lowrey prepare a preliminary plan and report for the park so that some immediate action could be taken on the development of the park.

**ADJOURNMENT**

Councilman Annan moved, seconded by Councilman R. Adams and it was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 6:30 P.M.

ATTEST:  REX E. GAILFUS, CITY CLERK

October 13, 1954

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Ordinance No. 1084-N.S., as amended, in the Council Chamber in the McHenry Public Library building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: R. Adams

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

Invocation was given by Rev. B. Den Oden of the First Christian Reformed Church.

APPROVAL OF MINUTES

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

REQUEST OF McHENRY LIONS CLUB TO SELL LIGHT BULBS

A request was filed by the Modesto McHenry Lions Club to sell electric light bulbs during the period Oct. 21-Nov. 6 from street corners for one night and in selected retail stores. The funds derived from the sale are to be used exclusively for civic betterment and welfare projects in the greater Modesto area, Anthony Besio, President of the club advised. Councilman Merrill introduced

RESOLUTION NO. 54-324

seconded by Councilman M. Adams, granting permit to the Modesto McHenry Lions Club to sell assorted electric light bulbs during the period Oct. 21-Nov. 6, providing the club will hold the city harmless from and against any and all costs, damages and liability arising from this operation, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan and R. Adams

ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR USE DURING THE 1954-55 FISCAL YEAR

Councilman Arata moved the adoption and passage to print of

ORDINANCE NO. 2. C.S.

entitled: "AN ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR USE DURING THE 1954-55 FISCAL YEAR", which motion was duly seconded by Councilman Mellis, was upon roll call carried and the ordinance adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan and R. Adams

REPORT ON ANALYSIS OF GENERAL RESERVE

The City Manager filed a report with the Council on the analysis of the General Reserve fund in the 1954-55 budget, giving the resume of the transfer already completed and listing proposed transfers, totaling \$10,724.00 as follows:

Publication of Municipal Code-----	\$5,000
Remodeling of City Hall -----	1,780
Inspection Division-additional help---	1,945
Fire Alarm boxes-Yosemite Blvd.	850
Recreation-Prior year charges	1,149
Total	<u>\$10,724</u>

Councilman Arata introduced

## RESOLUTION NO. 54-325

seconded by Councilman M. Adams approving appropriation transfer of \$10,724.00 from the General Reserve fund as follows:

\$5,000 to Miscellaneous-unclassified for printing and binding of Municipal Code  
 1,780 to City Hall building--maintenance and repair, building and grounds  
 1,945 to Inspection Division, salaries and wages \$1,705 and \$240 to equipment rental charges  
 850 to Fire Department-Capital Outlay, fire alarm system installation of two fire alarm boxes on North side of Yosemite Blvd. at Santa Cruz Ave. and LaLome Blvd.  
 1,149 to Parks and Recreation(#429-prior year charges payment to vendors for supplies-materials and services during the 1952-53 and 1953-54 years-authorized by Council on October 6, 1954)

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan and R. Adams

GRANT PERMIT TO MODESTO CITY SCHOOLS TO DISPLAY BANNER ACROSS STREET ADVERTISING SCHOOL BOND ELECTION

A request was filed by the Modesto City Schools for permission to display a street banner at the corner of 10th and J Streets, from Nov. 3 through Nov. 16, to call attention to the school bond election November 16.

City Attorney Grimes pointed out that although Resolution No. 9433-N.S., establishing the policy on the granting of permits to display banners, limited the number of organizations, that the Council had the authority to grant the requested permit by resolution. Mayor Marks introduced

## RESOLUTION NO. 54-327

seconded by Councilman Mellis, granting permit to the Modesto City Schools to display a banner on the city streets during the period Nov. 3 through Nov. 16, to advertise the school bond election of Nov. 16, providing the schools agree to hold the city harmless from and against any and all costs, damages and liability arising out of the erection and display of this banner, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Annan

It was agreed by the Council that city personnel should assist the schools in installing the banner.

APPROVE AMENDMENT #1 TO AGREEMENT FOR MAINTENANCE OF STATE HIGHWAYS

Amendment No. 1 to the Agreement for Maintenance of the State Highways in the City of Modesto, which provided for the inclusion of McHenry Avenue, from the city limits 160 feet North of Coolidge Ave., to the North city limits of the South line of M.I.D. Lateral No. 3, was presented for Council consideration. Councilman M. Adams introduced

RESOLUTION NO. 54-323

seconded by Councilman Arata, approving Amendment No. 1 to the Agreement for Maintenance of the State Highway in the City of Modesto, dated April 1, 1954, and authorizing its execution by the Mayor and City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Annan

DISCUSSION ON AMENDMENT OF SEARCH LIGHT ORDINANCE

Police Chief Neel reported that he had contacted the League of California Cities and a number of cities, regarding regulation of search lights. He stated that he had learned that Modesto was the only city he knew which prohibited them. He reported that he had discussed the following proposed regulations of search lights with Mr. S. Beran who had indicated a desire to operate in Modesto, if the Council would consider amending Ordinance No. 904-N.S:

Applicant be required to obtain a written permit from the Chief of Police prior to putting the light in operation;

That a time limit be established;

That the light be operated so that the beam is not displayed at an angle greater than 45 degrees from the perpendicular;

That not more than one light be allowed at one location.

Mr. Beran, the Police Chief stated, had agreed with all of the suggested regulations, with the exception of the time limit and the number of lights to be operated at one location. Mr. Beran had pointed out that it would not be necessary for him to leave his equipment on the streets during the day and only one parking space would be needed at night. Police Chief Neel stated. In order to reserve a space for Mr. Beran, Police Chief Neel continued, arrangements could be made to furnish a "No Parking" sign which could be placed in the parking area at the time the permit is issued. The matter of a permit fee was not discussed with Mr. Beran, he stated.

Councilman Mellis recommended that a nominal permit fee be charged since city personnel would be required to check the operation and the city streets would be used in the operation of the business.

Mr. Carl Schmidt, representing Mr. Beran, pointed out that the requirement of a permit fee would be imposing a hardship on Mr. Beran, as this would be in addition to a business license. In many cases, he stated, the light would be installed on private property instead of in the street.

The question of whether a permit fee should be charged  
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at all or only when the light was operated on the street, was discussed by the Council. It was agreed that a further check should be made on the license and permit fees required by other cities before any final decision was made on repealing or amending Ordinance No. 904-N.S.

City Attorney Grimes called Mr. Schmidt's attention to the fact that although the Council had discussed the possibility of repealing or amending the ordinance prohibiting search lights in the city, that Mr. Beran should be informed that the ordinance was still in effect.

FURTHER REPORT ON PROPOSED PURCHASE OF RIGHT OF WAY FROM JOE MINENI ON JOHNSON STREET AT DOWNEY AVENUE

Traffic Engineer Carmody filed a detailed report on the proposed widening of Johnson St., involving the Mineni property on the west side of Johnson Street at Downey Avenue, a copy of which is on file in the office of the City Clerk. He recommended that the 13.3' owned by Joe Mineni not be acquired by the City at this time due to the cost of the widening of this block, which he estimated to be approximately \$8,000 as the traffic daily volume of 1500 vehicles would not warrant more than the present two-lane road.

It was pointed out that it might be necessary in the future to prohibit parking at this location. Mayor Marks moved, seconded by Councilman M. Adams, and it was unanimously carried, that no further consideration be given to the purchase of the 13.3' strip of land from Joe Mineni, as recommended by the Traffic Engineer.

Mayor Marks commended Mr. Mineni for his patience and cooperation with the city in this matter which had been pending for a number of months. Mr. Mineni was advised to check with the City Attorney and Planning Department on the set-back requirements for his property.

REVISING SYSTEM FOR NUMBERING OF ORDINANCES DESIGNATING NEW CODIFIED SERIES

Upon the recommendation of the City Attorney, Councilman Merrill introduced

RESOLUTION NO. 54-325

seconded by Councilman Arata, providing that all ordinances adopted by the Council commencing on the 6th day of October, 1954, be numbered consecutively commencing with number 1 and be known as "Codified Series", which may be designated by the letters "C.S.", which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Annan

RESOLUTION OPPOSING AMENDMENT TO RAKER ACT

City Attorney Grimes presented for Council consideration a resolution opposing amendments to the Raker Act. Councilman M. Adams introduced

RESOLUTION NO. 54-326

seconded by Councilman Mellis, opposing amendments to the Raker Act governing the conservation and development of water resources on the Tuolumne River; urging the Division of Water Resources of the State to deny applications pending before it requesting to take unappropriated water out of the Tuolumne River for domestic, irrigation and power making purposes; directing the City Clerk to send a copy of this resolution to various individuals, as listed in the resolution, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
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Noes: Councilmen: None  
 Absent: Councilmen: R. Adams and Annan

REPORT BY CITY ATTORNEY ON RAILROAD RELOCATION MEETING

City Attorney Grimes reported on the informal meeting which had been held this date relating to railroad problems which had been attended by City Manager Lilly, City Attorney Biddick and Planning Director Ott of Stockton, Planning Director Stahm of Fresno, Councilmen Arata and Mellis, City Manager Miller, Planning Director Smeath and himself.

He stated that the discussion on railroad relocation was general and not related to any specific railroad. It was generally realized that many cities were faced with problems relating to railroad relocation, consolidation or abandonment of facilities. An attempt was made to find a means of solving the problems. The experience of the City of Stockton indicated that there were a number of possible solutions. The following suggestions were generally accepted by those present:

The first thing the city must know is----what it wants.

It must have a plan with alternate solutions available for the relocation of the facilities.

In order to have this plan a factual survey should be made, either by the city staff or with outside help.

The specific plan should take into consideration its effect on the economy of the city, the traffic situation and all other necessary pertinent data.

The location of a railroad affects a city for many years, he continued, and has a great effect on the community and should be studied so that a city "knows where it is going." The City of Stockton has hired the firm of Wise and Associates, Planning Consultants, to prepare a survey for it, he reported. Three members of this firm met with the group later in the day and discussed this survey. They pointed out that the problems involved the street and highway plan, the industrial development of the community and other things of that nature.

City Manager Miller, he reported, had suggested that since the League of California Cities convention would be held in Los Angeles next week, that the problems be raised before the City Manager's Division, Planning Division, Attorney's Division and Mayor and Councilmen's Division, to determine if there was sufficient interest in the problem for the League to appoint an interim study committee to explore the matter.

After a plan is adopted by a city, he continued, it should be presented to the railroads concerned. If the proposed solution is not acceptable to the railroad companies, consideration should then be given to institution of litigation.

Another suggestion was that the experience of other cities in California and throughout the nation, on this problem be obtained, and that suggestions be requested from other cities.

It was also pointed out that consideration be given to sponsoring needed legislation to clarify the rights of cities since the railroads are also subject to regulations by the Public Utilities Commission in California and the Interstate Commerce Commission.

Another suggestion was made that all the various interested public agencies keep each other advised on the progress that is being made. A copy of Stockton's survey, being made by Wise and Associates, will be

available to Modesto, he reported. It will contain a great deal of basic information on the subject which will be helpful.

Both attorneys present, he stated, were of the opinion that the authority and procedure for a city to cause a railroad company involved in interstate commerce, to relocate its facilities was not clear. He pointed out that the Tidewater Southern Railway Company is involved in interstate commerce. Litigation looking toward the relocation of its tracks in Modesto would have to be filed in the Interstate Commerce Commission.

The City Attorney pointed out that the relocation of the Tidewater tracks was not a matter which was likely to be finally resolved this year or next year. He cited the experience of various California cities which had been trying for many years to solve similar relocation problems. He pointed out various factors involved in the relocation of railroads, such as grade separations, removal of tracks from certain streets or out of residential areas, freeway situations, traffic regulation plans. These factors, he stated, should all be taken into consideration in preparing a relocation plan.

He pointed out that in previous discussions of the relocation of the Tidewater tracks, the discussion had been directed to "getting the tracks off of Ninth Street." It must be recognized, he stated, that the railroad serves a function and that a place in the community for its facilities must be provided. Usually, some persons are adversely affected by the relocation of a highway and others are helped. This is also true of a relocation of a railroad.

Mayor Marks pointed out that the M.I.D.'s lateral #4 running through the heart of the town, served very few people now and he likened this situation to the situation of the railroad, except for the fact that the railroad was a private enterprise.

The right of way problem was also discussed, the City Attorney continued. There are two problems--sometimes the company owns its own right of way, which is the case of the Tidewater on Virginia Avenue, and sometimes the right of way is publically owned, which is the case on Ninth Street where the franchise has expired.

The possibility of appointing a local attorney, representing certain Ninth Street merchants, as an assistant city attorney, to conduct litigation to remove the Tidewater tracks from that street was considered at the meeting, he stated. The discussion pointed out that before any such appointment be made that the city should get itself in a position to know what it wants for a plan. If a plan is prepared and presented to the company and the company declines to accept it and is opposed to relocation, it will then be soon enough to consider litigation. Even then careful consideration should be given to utilizing the services of a counsel representing a specific group of citizens to conduct the litigation. It was generally agreed that the acceptance of assistance would be fine as long as the Council could make policy determinations in the public interest.

Another point brought out was that experience had demonstrated that attempts to solve the problem by litigation had been costly and consumed long period of time.

The City Manager pointed out that the solution would take time but that the city should not delay but get started at once to take the necessary steps to solve the problem.

The City Attorney pointed out that the problem experienced by many cities was that the regular city staff was not experienced in

making the kind of survey needed and usually did not have the time to gather the necessary data. For these reasons, he stated, some cities look for experienced technicians to do it. He pointed out that Wise and Associates were doing an excellent job for the City of Stockton and that it might be well worth the cost if Modesto employed this firm.

The City Manager pointed out that there were two steps for the city to take at the present time, 1) bring up the matter in the four divisions at the League convention, and 2) obtain the City of Stockton report, which would be available in approximately one month.

The City Attorney stated that the city had been advised by Rex Kearney, President of the Tidewater Southern Railway Company, that a further discussion had been held with the Southern Pacific Company relative to using the S.P.'s tracks and that the S.P.'s position remained the same---it cannot see its way clear to permit the Tidewater to operate on its line. Mr. Kearney pointed out that it was not feasible to continue its efforts to this end.

The City Attorney pointed out that the city had taken the position in the past that the Tidewater Southern Railway Company should "get off of Ninth Street." The city should, he stated, also present a plan as to where the railroad should be relocated. He pointed out several possible alternatives to be considered which should be presented to the company, with an offer to share costs if such is necessary to resolve the matter.

Councilman Arata stated that the only proper place for the relocation of the Tidewater facilities was the Southern Pacific tracks.

Attorney Grimes pointed out the possibility of placing the tracks, 1) adjoining the freeway, if Route B was decided on, 2) west of the present Southern Pacific Tracks, or 3) come into Modesto on the east beyond the M. & E. T. Company tracks.

Councilman M. Adams suggested to save time that the city staff start to accumulate data which would be needed when the report was received from the City of Stockton.

The City Manager pointed out that all the available time of the Planning staff was presently being used to complete the zoning ordinance and map.

Councilman Arata suggested that no action be taken until the report had been received so that a satisfactory plan could be arranged.

Mayor Marks recommended that a copy of this report be sent to each person who had signed the petition filed with the Council on April 29, 1954 by Attorney Vernon Gant, requesting the removal of the Tidewater tracks from Ninth Street.

CITY ATTORNEY DIRECTED TO PREPARE AGREEMENT FOR RETENTION OF BOND COUNSEL IN CONNECTION WITH PARKING PROGRAM

The City Attorney reported on the approximate costs to the city for the hiring of bond counsel to review proposed charter amendment relating to the off-street parking revenue bonds. Mayor Marks moved, seconded by Councilman Arata, and it was unanimously carried, that the City Attorney be directed to prepare an agreement for the consideration of the Council, with Orrick, Dahlquist, Herrington and Sutcliffe, bond counsel, relating to the proposed charter amendment on the off-street parking revenue bond program.

CITY ATTORNEY REPORTS ON PREPARATION OF ORDINANCE RELATING TO PARKING AUTHORITY

The City Attorney reported that he was in the process of preparing a draft of an ordinance, for Council and Parking Authority consideration, establishing a Parking Commission along the lines of the general suggestions that were made by the Council at the joint meeting recently held by the members of the Authority and of the Council.

CHAMBER OF COMMERCE REQUEST PAYMENT OF ANNUAL APPROPRIATION

A letter was read from A. T. Brandt, Secretary-Manager of the Chamber of Commerce requesting payment of the appropriation in the 1954-55 budget of \$4,000. Councilman Merrill introduced

RESOLUTION NO. 54-328

seconded by Councilman Arata, authorizing payment of \$4,000 to the Modesto Chamber of Commerce, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Annan

ESTABLISH PASSENGER LOADING ZONE IN FRONT OF FIRST BAPTIST CHURCH TWELFTH AND M STREETS

Upon the recommendation of Traffic Engineer Carmody, Councilman M. Adams introduced

RESOLUTION NO. 54-324

seconded by Councilman Mellis, establishing a passenger loading zone on the Southwesterly side of 12th Street, at M Street, in front of the First Baptist Church, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: R. Adams and Annan

CITY MANAGER REPORT NORTHERN CALIFORNIA BAPTIST CONVENTION BEING HELD IN MCDESTO

The City Manager reported that the convention of the Northern California Baptist Churches, was being held at present in the First Baptist Church, 12th and M Streets, which was being attended by a large number of members throughout the state.

ACCEPT ANNUAL REPORT OF THE MODESTO CITY PLANNING COMMISSION

The annual report for the fiscal year 1953-54 of the Modesto City Planning Commission was accepted by the Council and ordered filed in the office of the City Clerk.

ACCEPT MONTHLY FINANCIAL STATEMENT AS OF SEPT. 30, 1954

The financial statement as of Sept. 30, 1954 of the city filed by the Director of Finance was accepted by the Council and ordered filed in the office of the City Clerk.

REPORT ON OBJECTIONS TO USE OF SEWER EASEMENT IN THOUSAND OAKS SECTION FOR LALOMA TRUNK SEWER

The City Manager reported that in the construction of the LaLoma trunk sewer, objections had been made by 2 of the 48 property owners near the Thousand Oaks Park, to the city's using the utility

easement running through blocks 2170 and 2169. One of these owners had indicated that he believed the city should pay him for using the easement.

The City Manager stated that it was the city's position that it had a legal right to go through this easement with the sewer line in order to furnish the service to the entire area, without paying the property owners adjoining the easement.

REPORT ON PROBLEM OF WATER CONNECTION CHARGES TO TRACTS OF RECORD

The City Manager pointed out that only a portion of the property owned by the McHenry Village Medical Center was being developed at this time but that under the provisions of Ordinance No. 1069-N.S., it would be necessary to charge a water connection fee on the entire area under this ownership at this location. The owners of this property were objecting to this basis for charging the connection fee, he stated. Whenever the remaining portion of the area is developed, he stated, the connection fee would be paid by the owners, and no income would be lost to the city.

The City Manager stated that in the past whenever only a portion of a large area under one ownership was being served, that it had been the administrative practice to base the connection fee on that portion only which was being developed. He asked the Council to adopt a motion approving in principle this past practice until an amendment to the ordinance clarifying this procedure could be prepared for Council consideration.

Councilman Mellis moved, seconded by Councilman M. Adams, and it was unanimously carried, that the practice of the administrative staff in charging water connection fees be approved in principle and the City Attorney be directed to prepare for Council consideration an amendment which would clarify the procedure.

Councilman Annan arrived at this time

DISPENSE WITH SPECIAL COUNCIL MEETING ON OCTOBER 21

It was agreed by the Council that the special meeting scheduled for Thursday, Oct. 21, be dispensed with since the provisions of Ordinance No. 1084-N.S. required that all matters to be discussed be placed on the call which must be delivered to the members 24 hours in advance, which would be difficult as most of the administrative staff and members of the Council would be absent from the city at the League Convention until late Wednesday, Oct. 20.

ADJOURNMENT

Councilman Mellis moved, seconded by Councilman M. Adams and it was unanimously carried, that the meeting now in session adjourn.

RECONVENE MEETING TO DISCUSS REQUEST OF H. W. HULSE TO REZONE AREA NORTH OF NEEDHAM AVENUE

Councilman Mellis moved, seconded by Councilman M. Adams, and it was unanimously carried, that the motion to adjourn this meeting be rescinded.

Mr. H. W. Hulse asked Council consideration to the petition which had been previously filed by property owners in an area bounded on the East by the alley between College and Olive Avenues, on the North by the M.I.D. lateral #4, south by Needham Avenue and West by Nellie Avenue, as C-1, commercial. Mayor Marks pointed out that this was being consider-

ed in the over-all zoning of the city which would be completed in a short time.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman Merrill, and it was unanimously carried, that this Council meeting now in session be adjourned. The meeting was adjourned at 9:15 P.M.

ATTEST:

  
City Clerk

October 20, 1954

The Council of the City of Modesto met in regular session this date at 4:00 P.M. in the Council Chamber of the City of Modesto in the McHenry Public Library Building, 14th and I Streets, as provided by Ordinance No. 1084-N.S., as amended.

The Acting City Clerk called the roll and there were

Present: Councilmen R. Adams and Arata

Absent: Councilmen: M. Adams, Annan, Mellis, Merrill and Mayor Marks

ADJOURNMENT

Since a majority of the members of the Council were attending the League of California Cities Convention in Los Angeles and there was not a quorum present to transact the business of the city, Councilman R. Adams moved, seconded by Councilman Arata, and it was unanimously carried that this meeting adjourn until 5:00 P.M., October 21, 1954.

ATTEST: *Anne M. Collins*  
Acting City Clerk

Adjourned Council Meeting

October 21, 1954

The Council of the City of Modesto met in adjourned session this date at 5:00 P.M., as provided by Ordinance No. 1084-N.S., as amended, in the Council Chamber of the City of Modesto in the McHenry Public Library Building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Absent: Councilmen: Merrill

City Manager Miller being absent, Carl Millar, Assistant City Manager, acted in his place.

ACCEPT BID OF VALLEY ENGINEERS INC. FOR THE CONSTRUCTION OF SANITARY TRUNK SEWER-TUOLUMNE RIVER CROSSING

Tabulation of the 5 bids received for the construction of sanitary trunk sewer-Tuolumne River Crossing, which had been opened at 2:00 P.M., Oct. 19, 1954, were reviewed by the Council members. Director of Public Works Ray recommended that the low bid of \$21,890.00 submitted by Valley Engineers Inc. of Fresno, be accepted. He stated that there was an urgent need to award the bid so that construction could be started immediately and completed within the required time before water conditions became too severe in the Tuolumne River. One of the two necessary easements on the banks of the river has been signed, he stated. Mr. Tocalino of the Modesto Tallow Works has indicated by telephone that he is willing to sign the other easement but wanted his attorney to check it.

City Attorney Grimes stated that the award of the bid could be conditioned upon the entering into a contract if the necessary easements are received. Councilman Arata introduced

RESOLUTION NO. 54-331

seconded by Councilman R. Adams, accepting the bid of the Valley Engineers, Inc., of \$21,890.00 for the construction of the sanitary trunk sewer-Tuolumne River crossing, as it was the lowest bid received, as recommended by the Director of Public Works, upon the condition that the City of Modesto would enter into a contract when and if the necessary easements were executed; and authorizing execution of contract by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

ACCEPT CONSTRUCTION ENCROACHMENT FROM AGNES C. HUFFMAN IN CONSTRUCTION OF NORWEGIAN AVENUE TRUNK SEWER LINE

Upon the recommendation of the City Attorney, Councilman Annan introduced

RESOLUTION NO. 54-332

seconded by Councilman Arata, accepting the Construction Encroachment from Agnes C. Huffman, granting permission to the city to enter upon her property located on McHenry Avenue, near Norwegian Avenue, between  
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Nov. 1, 1954 and Dec. 31, 1954, for the purpose of a working area in constructing the Norwegian Avenue sanitary trunk sewer line and authorizing its recording with the County Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

FINAL ADOPTION ORDINANCE NO. 1-C.S. PARKING IN RESIDENTIAL DISTRICTS  
WHEN ADJACENT TO COMMERCIAL DISTRICTS

Ordinance No. 1-C.S. entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 700-N.S. (ZONING ORDINANCE) BY ADDING SUBSECTION (1) TO SECTION 3 (1) THEREOF" having been heretofore introduced and ordered printed and published at the regular meeting of October 6, 1954, Councilman Mellis moved, seconded by Councilman R. Adams, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

APPROVE CHANGE ORDER IN CONSTRUCTION OF SANITARY SEWER LATERALS IN  
NORTH CENTRAL ADDITION

The Director of Public Works reported that at the time the specifications had been prepared for the sewer laterals in the North Central Addition, that the wording was not clear in respect to the installation of wye fittings. Vincent Rodrigues, the successful bidder, had not included these in his bid, he stated. There was also reason to believe, he continued, that most of the other bids submitted were on this same basis. Even with the cost of the wyes included, Mr. Rodrigues' bid would still be approximately \$3,000 lower than any other bid submitted.

After a meeting with the City Attorney, he stated, it was suggested that the logical solution to the problem would be, since both parties had erred to some extent, that the city pay for the necessary 350 wyes, which would be approximately \$700, and the contractor provide the necessary labor. This would not involve a change in the contract and could be handled by the issuance of a change order.

Since the contractor is ready to start work and has his equipment already on the job, the Director of Public Works stated, it is necessary for the Council to consider this matter at this time.

Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried, that the change order in the construction of the sewer laterals in the North Central Addition, providing that the city reimburse the contractor for the cost of furnishing one wye for each building site, at the rate of \$2.00 for each wye, with the contractor to provide the labor necessary, be approved.

ADJOURNMENT

Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the meeting now in session adjourn. the meeting was adjourned at 5:25 P.M.

ATTEST

*Ray E. Gailfus*  
10-21-54 pag 2 City Clerk

The Council of the City of Modesto met in regular session this date at 7:30 P.M., as provided by Ordinance No. 1084-N.S., as amended, in the Council Chamber of the City of Modesto at the McHenry Public Library, 14th and I Streets.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Absent: Councilmen: Merrill

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

A few moments of silent prayer were observed.

#### APPROVAL OF MINUTES OF COUNCIL MEETINGS

Council members having received copies of the minutes of the meetings of October 6, 20, and 21, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM CENTRAL VALLEY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES RE: APPOINTMENTS TO EXECUTIVE COMMITTEE

A letter was read from James M. Greening, Secretary-Treasurer of the Central Valley Division of the League of California Cities regarding appointments to the executive committee. The City Clerk was directed to notify Mr. Greening that Mayor Marks had been appointed as Modesto's representative and Councilman Robert Adams, as alternate representative.

#### NOTICE OF PUBLIC HEARING BEFORE PUBLIC UTILITIES COMMISSION ON APPLICATION NO. 35780 OF THE WESTERN UNION TELEGRAPH CO. FOR INCREASE AND REVISION OF INTRA-STATE RATES

Copy of Application No. 35780 of the Western Union Telegraph Company filed with the Public Utilities Commission by the Western Union Telegraph Company relating to increasing and revising of intrastate rates, notifying of the public hearing to be held in San Francisco November 19, was read and ordered filed. It was agreed by the Council that no action be taken on this matter.

#### LETTER OF APPRECIATION FROM McCLATCHY NEWSPAPERS FOR CO-OPERATION GIVEN BY CITY IN FASHION SHOW HELD IN MANCINI BOWL

A letter was read from Franklin C. McPeak, Public Relations Director of the McClatchy Newspapers, expressing appreciation to the City of Modesto for its cooperation in the Fashion Show recently held in Mancini Bowl.

#### REQUEST FOR PARKING PRIVILEGES TO BE EXTENDED TO CONVENTION DELEGATES BY CONVENTION COMMITTEE OF THE MODESTO CHAMBER OF COMMERCE

A letter from E. W. Walser, Chairman of the Convention Committee of the Modesto Chamber of Commerce, regarding parking privileges to be extended to convention delegates, was read. Attached copies of letters from Mr. Walser to the Chamber of Commerce President Sid Losher and various cities, outlining their practice in handling parking of delegates were reviewed by the City Manager. The following points were brought out in the discussion:

That it would be necessary to amend the ordinance to permit free parking of convention delegates with stickers attached to their cars;

That granting free parking to delegates from out of town would be discriminating against the local parker who would be required to pay;

That the privilege would be a minor matter since the number of conventions were small and not all delegates would use their cars;

That all conventions could be cleared through the Chamber of Commerce so that the privilege would not be abused;

That the privilege of free parking might be an incentive in selecting Modesto as a convention location;

That very few cities extended this privilege to convention delegates.

The City Manager recommended, since the request was only that a study be made, that the matter be cleared through the City Attorney as to what legal steps would be necessary if the privilege of free parking was granted to convention delegates; that a summary report of other cities' experience and the opinion of the Merchants Association be obtained for Council consideration.

MAYOR MARKS ISSUE PROCLAMATION FOR "RELIGION IN AMERICAN LIFE MONTH"

Dr. Alan Goozee appeared before the Council on behalf of the Council of Churches and requested that Mayor Marks issue a proclamation declaring the month of November as "Religion in American Life Month". He read a suggested form of proclamation urging the citizens of the city to participate in the program through attendance at their own churches. He stated that this was a national program. Councilman Arata introduced

RESOLUTION NO. 54-333

seconded by Councilman Mellis, authorizing the Mayor to issue a proclamation declaring the month of November, 1954, as "Religion in American Life Month" and urging citizen participation through attendance at their own churches and authorizing the publication in the newspaper of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

Dr. Goozee stated that the Council of Churches Organization wished him to express its appreciation for the fine administration of the city affairs being given by the Council.

LETTER FROM MODESTO POLICE ASSOCIATION INVITING COUNCIL MEMBERS TO ATTEND DINNER IN HONOR OF U. H. PICKERING, RETIRED

An invitation from the Modesto Police Association to the Council members to attend a dinner being held November 7, honoring Captain U. H. Pickering of the Police Department, was read. At the suggestion of Mayor Marks, Councilman Arata introduced

RESOLUTION NO. 54-334

seconded by Councilman Mellis, commending U. H. Pickering for his many years of service with the city and authorizing the issuance of a certificate of merit to him, and directing the City Clerk to send him a certified copy of this resolution, which resolution, was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Merrill

A general discussion was held on the feasibility of issuing certificates of merit or a plaque to former members of the Council honoring them for their years of service to the city. Councilman Annan suggested, to which the Council concurred, that the matter be referred to the City Manager and City Attorney and anyone else who wished to meet with them, to consider a method or means of honoring persons who have rendered outstanding service to the city, and they present a plan for Council consideration within 2-3 weeks.

The City Manager stated that "I personally appreciate very much Mr. Pickering's loyalty to the city and the way in which he has helped us work out some of the problems we have been faced with. I hope that he will be very happy in his new assignment. He has been a loyal, and faithful public servant."

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS ON NORWEGIAN SANITARY TRUNK SEWER

The City Manager outlined the route of the proposed sanitary trunk sewer on Norwegian Avenue and Councilman M. Adams introduced

RESOLUTION NO. 54-335

seconded by Councilman Annan, approving the plans and specifications and authorizing the calling for bids for the construction of the Norwegian Avenue sanitary trunk sewer, said bids to be opened in the office of the City Clerk, 2:00 P.M. November 15, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ORDINANCE AMENDING MUNICIPAL CODE REGULATING AMBULANCES

Pursuant to directions of the Council the City Attorney presented for Council consideration an ordinance increasing the limits of public liability and property damage insurance required on ambulances operating in the city. Councilman R. Adams moved the introduction and passage to print of

ORDINANCE NO. 3-C.S.

entitled: "AN ORDINANCE AMENDING SECTION 6-7.101 OF ARTICLE 1 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE REGULATING AMBULANCES" which motion being duly seconded by Councilman Mellis, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT SANITARY SEWER LATERAL ON AMHERST AVENUE FROM ROSEBURG AVENUE TO FORDHAM AVENUE FROM CONTRACTOR ANDREW P. RASMUSSEN

The Director of Public Works filed a report on the completion of the sanitary sewer lateral on Amherst Avenue between Roseburg Avenue and Fordham Avenue by contractor Andrew P. Rasmussen. He recommended that the work be accepted from the contractor, that Notice of Completion be filed with the County Recorder and that payments be made as due. Councilman Arata introduced

RESOLUTION NO. 54-336

seconded by Councilman Annan, accepting the sewer lateral on Amherst Avenue, between Roseburg and Fordham Avenues, from contractor A. P. Rasmussen, as recommended by the Director of Public Works; that the City Clerk record Notice

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of Completion with the Stanislaus County Recorder; and that payments as due be authorized, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

AUTHORIZE RELEASE OF SUBDIVISION BOND FILED BY W. E. GRANT ON THE COLLEGE FIG GARDEN SUBDIVISION

The City Manager reported that the work required under the subdivision bond filed with the city by Wilbur E. Grant on the College Fig Garden subdivision had been completed and all provisions of the agreement had been fulfilled. Councilman M. Adams introduced

RESOLUTION NO. 54-337

seconded by Councilman R. Adams, authorizing the release of Subdivision Bond No. 734965 of the Massachusetts Bonding and Insurance Company to Wilbur E. Grant, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

DISCUSSION ON PROPOSED 18 HOLE GOLF COURSE

The City Manager reported that Wm. Bell, Golf Architect had investigated the possibility of using the present 9 hole golf course in connection with the land Horace Dryden has offered the city, which would involve the moving of the baseball park to another location. Mr. Bell had drawn preliminary plans, he stated, and had advised that from a standpoint of operation of the course that it would not be feasible.

Councilman Arata recommended that Mr. Bell be requested to investigate the possibility of using the present golf course in conjunction with the land owned by Kenneth Durand.

Councilman Annan recommended that the city, without further delay, purchase from Mr. Durand the necessary land to combine with the land offered by Mr. Dryden, and develop an 18 hole course, if the Durand property could be bought "at the right price".

Mayor Marks pointed out that a City Hall was badly needed for the economical operation of the city. Many people, he stated, considered the building of an auditorium the most important item.

Councilman Arata stated that he was not against the development of a course on the bottom land but that there would be a material savings to the city if the upper 9 hole course could be used.

Councilman Annan asked whether a price had been obtained on the Durand property.

Councilman R. Adams stated that the Council committee had met with Mr. Durand and discussed the feasibility of purchasing his property in units or in its entirety. Prices have been mentioned, he stated, but there were certain tax items which Mr. Durand wished to clear. He is very cooperative, Councilman R. Adams stated. The committee will be able to clear this within 4-5 weeks, he stated, which will be before the agreement with Mr. Dryden expires and the city can make its decision at this time. Only tentative figures and methods of payment have been discussed between the committee and Mr. Durand, he stated. The figures discussed are not too far off from the appraisal made for the city and the value estimated by Councilman Arata who is familiar with this type of property. He pointed out that it was incumbent on the Council

to get all the facts, weigh all the factors and only then the most logical decision could be made.

Councilman Annan recommended that the offer of land made by Mr. Dryden, the assistance of the young men of the Municipal golf course to raise money, and the offer of the local business concerns to furnish equipment for the development of the course, should not be passed up.

At this time Mayor Marks read the letter from Al Segal, Chairman of the Citizens Recreational Committee. This group extended its undivided support to the future plans for the development of the present course as a park as well as the proposed Dryden 18 hole golf course.

The letter stated:

"To you, the governing body of the City of Modesto, we are placing in writing to become a permanent part of the records for the cities proposed eighteen hole golf course the following pledged commitments and cooperation:

1. Land donated by Mr. Dryden, approximately 55 acres, to be used for golfing recreation.
2. Donations of use of heavy equipment by local dealers; estimated at conservatively \$15,000. Letters of commitments by the respective firms have been sent to the city to become a part of the permanent record.
3. The Citizens Committee pledges full support in making available to the citizens of the community the present golf course site of approximately 40 acres to be used as a possible recreational area.
4. The Citizens Committee for Recreational Improvement has undertaken the project to raise a minimum of \$15,000. At this writing, \$5,000 has been raised in committed pledges. The funds are to be held in trust by the Anglo California Bank, which will be made available to the city upon their request.

Mr. Segal, who was present, stated that this offer of the committee was contingent upon the development of the 18 hole course on the bottom land which would not include the present 9 hole course. The committee considered, he continued, that the city should take advantage of the chance to obtain an additional 55 acres site for a park and recreational area. One of the firms offering equipment for the development of the course, he stated, has indicated its offer would extend to the development of the 9 hole course, also, as a recreational area.

Councilman R. Adams stated that he wished to have the Council Committee's position clear. A number of individuals have asked this committee, he continued, "why get rid of the present nine hole course. Can't it be tied in with the Dryden property?" However, the committee members may personally feel, he stated, the people and the Council are entitled to all the facts and every suggestion should be explored. Because of this, he pointed out, there has been no real delay in the program.

The City Manager stated that Mr. Bell could be contacted at once and asked to give a quick report on whether it would be feasible to combine the present 9 hole course with the Durand property.

Councilman Mellis suggested that the development of the present golf course as a park area should not be tied in with the 18 hole golf course-- that the park could set 2-3 years; to develop both at the same time would be too much for the present city to accomplish.

Councilman Annan moved, seconded by Mayor Marks, and it was unanimously carried that the City Manager be authorized to call Mr. Bell to get

his opinion on the proposal to combine the present golf course with the Durand property.

Mr. Segal reported that the receipt which the committee was giving to a subscriber stated that it was in payment of advanced green fees on the proposed 18 hole golf course. He requested that the Council resolve that the city would give par value for the money collected on green fees.

After a general discussion, Councilman Arata moved, seconded by Councilman R. Adams, the Council go on record to give credit for advance green fees valid on the opening date to subscribers to the proposed 18 hole course, if and when construction is completed.

To a suggestion made by Mr. Segal that it would be an incentive if the committee could promise the subscribers that if their contributions were left in the bank for a long period of time due to the delay in the golf course development, that interest could be allowed; it was agreed by the Council that no such arrangements could be approved, that the contribution should be considered as citizen participation in an attempt to bring the program to completion faster.

Mr. Segal stated that the Citizens Recreational Committee <sup>was</sup> comprised of 60 local clubs, working together to raise \$15,000 for the development of the 18 hole course.

The City Manager asked Mr. Segal for clarification on his remark that one of the business firms had offered cooperation on the reconstruction of the present golf course as a recreational area as well as the golf course. Mr. Segal stated that this offer made by the Valley Tractor & Equipment Co. was on the condition that the other companies would go along with this plan.

It was agreed that if the Council decided to proceed with the construction of the 18 hole golf course that it would issue official city receipts for contributions.

#### ACCEPT UTILITY EASEMENT AGREEMENT FROM KENNETH H. DURAND

The City Attorney presented for Council consideration utility easement agreement from Kenneth H. and Gladys S. Durand relating to the construction of the sewer line across the Tuolumne River. Councilman Annan introduced

#### RESOLUTION NO. 54-338

seconded by Councilman Arata, accepting the utility easement agreement from Kenneth H. and Gladys S. Durand, authorizing its execution by the city's authorized official, and directing the City Clerk to record said agreement with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

The City Attorney reported that the other two agreements, with Modesto Tallow Company and Charles Tocalino, involved in this construction had not been cleared as yet and the contract was being held up.

#### AUTHORIZED PURCHASE OF ACTI-ZYME FOR USE AT THE SEWAGE DISPOSAL PLANT

The City Manager outlined a proposal by the Dry Chemical Pacific Company, to treat the sewage disposal plant with Acti-Zyme for a thirty day period which would clean the mains and laterals and eliminate odors, digest the existing organic solids or sewage waste accumulated on the bottom of oxidation ponds.

The company has agreed, he stated, that if this material did not meet the standards and do the work which had been claimed that the 30 day test would be free of cost to the city. The Sewer Committee of the Council has been consulted, he stated, and has agreed that it should be tried on that basis. Since the cost would be over \$1500, the City Manager stated, it would be necessary for the Council to approve the expenditure.

A discussion was held on the discount allowed, which was 20%, which was considered too low for the large supply needed by the city. The City Manager stated he had checked on this matter, but could obtain no better price at this time. Councilman M. Adams introduced

RESOLUTION NO. 54-339

seconded by Councilman Arata, authorizing the execution of an agreement for the purchase of Acti-Zyme on a trial basis with the Dry Chemical Pacific Company, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ABANDON BUS LOADING ZONE ON ELEVENTH STREET AT I STREET

The City Attorney presented for Council consideration a resolution providing for the abandoning of a bus loading zone on Eleventh Street near I Street. He stated that this was prepared at the Traffic Engineer's recommendation as the zone was not now being used due to the rerouting of the bus. Councilman Arata introduced

RESOLUTION NO. 54-340

seconded by Councilman R. Adams, abandoning the bus loading zone located on the east side of Eleventh Street, just south of I Street and directing the Traffic Engineer to cause parking meters to be installed at this location, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

DISCUSSION ON PURCHASE OF VEHICLES

The City Manager reported that the city would soon be ready to go to bid to purchase the vehicles authorized in the 1954-55 budget. He stated that a number of excellent informal bids had been offered by local firms. He asked if the Council might wish to designate one or two Councilmen to work with the administrative staff if it was agreed by the Council that consideration should be given to the informal offers.

The City Attorney stated that as a matter of policy he would advise the Council to consider very carefully before any change in the method of purchasing equipment except by bid call be used.

It was agreed by the Council that no consideration be given to informal bids and that the usual procedure of calling for bids be followed.

GRANT PERMIT TO MODESTO RETAIL MERCHANTS TO INSTALL CHRISTMAS DECORATIONS ON LIGHT POLES

A request was filed by Robert P. Horner, Chairman of the Christmas Decorations Committee of the Modesto Retail Merchants-Downtown Division for permission to place this year's Christmas decorations on the city light poles in the business district at a height of 11 feet. Councilman Annan introduced

## RESOLUTION NO. 54-341

seconded by Councilman R. Adams, granting permission to the Modesto Retail Merchants Association to place Christmas decorations as requested in its letter of October 27 at a height of 11 feet on the condition the Association hold the city harmless from and against any and all costs, damages, and liability arising from the installation of the decorations, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

APPROVE APPROPRIATION TRANSFERS IN THE TRAFFIC ENGINEER DEPARTMENT

The City Manager and Traffic Engineer outlined proposed appropriation transfers from the General Reserve and the Public Works Department-Streets Division to the Traffic Engineer Department, which totaled \$9,024.00. Councilman Annan introduced

## RESOLUTION NO. 54-342

seconded by Councilman M. Adams, approving appropriation transfers to the Traffic Engineer's Department of \$4,025.00 from the General Reserve for salaries, wages, maintenance and repair of office and other equipment, tools, etc., construction material and camera, and appropriation transfers from the Public Works-Streets Division of \$3,000 for traffic channels at intersections and \$2,000 for traffic signs, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

REPORT BY PLANNING DIRECTOR ON GENERAL WORK PROGRAM

Planning Director Smeath briefly outlined the general work program of the Planning Department, which called for:

1. Completion of a sketch plan for the Greater Modesto area on November 15, 1954
2. Presentation to the Council of the revised text and map of the Zoning Ordinance by December 10, 1954
3. Reports on the Civic Center, Corporation Yard and Communications Center by January 1, 1955
4. Preliminary Master Plan for the development of Modesto available for public discussion by May 1, 1955. Also on the same date the completion of a Capital Improvement Program for 1955-56 and the ensuing six years until 1961.

All this is in addition to the regular miscellaneous routine daily activities on conferring with the public on zoning, subdivision and annexations, he stated.

The City Manager commended Planning Director Smeath on his proposed program and his understanding of planning and people.

The City Manager stated that in order to move this proposed program along it would be helpful if the working staff could be increased by one Planning Technician to help out in the routine work. This would cost approximately \$3,000, other needed items would be postage, additional appropriation for conference and travel, office supplies, books and furniture for the new employee, which would total \$4,524.00. Councilman Arata introduced

## RESOLUTION NO. 54-343

seconded by Councilman M. Adams, approving the appropriation transfer of \$4,524 from the General Reserve to the Planning Department to adjust the budget to provide for the additional Planning Technician and for other operating expenses based upon the expanded program of this department, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Mellis

APPROVE APPROPRIATION TRANSFER OF FUNDS FOR SEWER LATERAL EXTENSION (NORTH CENTRAL ADDITION)

Upon the recommendation of the City Manager, Councilman Mellis introduced

## RESOLUTION NO. 54-344

seconded by Councilman R. Adams, approving appropriation transfer of \$15,000 from the General Reserve to the Public Works-Sewer Division for the excess of the cost of sanitary sewer laterals in the North Central Addition over the revenue received under Ordinance No. 1070-N.S. for sewer lateral connection fees from the property owners which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR USE DURING THE 1954-55 FISCAL YEAR

Councilman Annan moved the adoption and passage to print of

## ORDINANCE NO. 4-C.S.

entitled: "AN ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR USE DURING THE 1954-55 FISCAL YEAR", which motion being duly seconded by Councilman Arata, was upon roll call carried and the ordinance adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Merrill

ACCEPT ANNUAL FINANCIAL REPORT FOR YEAR ENDING JUNE 30, 1954

The financial report of the city for the year ending June 30, 1954, presented by the Director of Finance, was ordered filed in the office of the City Clerk.

REPORT ON INVESTIGATION OF FEES FOR OPERATION OF SEARCH LIGHTS

The City Manager reported that the Chief of Police recommended that a fee of \$2.50 for the first day and \$1.00 for each succeeding day be charged for the operation of a search light on city streets and that no fee be charged when the light is located on private property.

The City Attorney recommended for adequate control of search lights that a permit be obtained to cover every operation, even if a fee is not charged.

The Council concurred with this suggestion and the City Attorney was directed to prepare an ordinance along these lines for Council consideration.

Mr. Bomberger pointed out that the construction of the jail would have a tendency to keep people off of this street. He stated that he was not challenging the report but that there/contributing factors to be considered were

Mayor Marks pointed out that he was not challenging the figures and facts but the jail construction and the eye-sore created by the Hotel Modesto building and the fact that there were two buildings vacant were factors which would have to be considered.

Mr. Carmody outlined the method used in assembling the facts in the report which showed that only 79% of the present parking spaces along 11th Street between H & I Street were being used during the peak period. He stated that his concern about the parking lot was from an economical point of view-- that it cost \$3,000 for each parking stall, two parking meters would have to be removed from the street for a driveway entrance and a building which cost \$65,000 would have to be torn down, which still had a considerable life service and the fact that lots in an area of greater demand could be purchased for materially less.

Councilman Mellis commended Mr. Carmody on his excellent report and stated that he considered the excessive cost of the parking stalls at this location and the loss from the tax revenue on this property should be considered from the standpoint of the tax payers of the city. He stated that he believed the Authority was not justified in spending that much money (\$3,000) per stall.

Councilman Annan returned at this time and expressed the belief that the Authority did not have a plan when the two 11th Street buildings were purchased. He pointed out the loss of taxes from the property, the cost of demolishing the building, filling the basement and the fact that there was a common wall between the Bee building and the Bava building. The Authority, he stated, spent too much money without having a plan. He asked if the Authority had investigated the possibility of having two level parking on the property.

The City Attorney pointed out that it had been discussed and Mr. Carmody had investigated it and the Authority's determination was that it was not feasible to spend the money to make a multiple storage plan. They planned to fill the basement for one level parking with the possibility of eventually going up if the demand increased.

Mayor Marks stated that when the Authority made this purchase that he had thought it was an excellent purchase and that he was astonished when he studied the report made by Mr. Carmody. He stated that he did not challenge the facts and figures but the implication in the report.

The City Attorney pointed out that it had been necessary for the Authority to come to the Council to change its directive to get the permission to purchase the two buildings.

Mr. Bomberger pointed out that one of the reasons the Authority paid the price it did for the buildings was that it was planned to purchase the Modesto Irrigation District building when that became vacant, which would bring down the cost of each stall when divided over the three lots. He stated that he did not challenge the report except for one thing and that was the statement of Real Estate Appraiser Fred Freed that desirable parking land could be purchased for \$600 per front foot. He stated that this would not be possible.

The City Manager stated that if Mr. Freed's figures were to be challenged that he should be present to defend himself--that he was a valid recognized appraiser and he should be granted that privilege.

The City Attorney pointed out that the matter now under discussion was on the development of the property and that the decision to develop or not develop was the Authority's. The Authority has just asked for guidance on whether the lease is to be signed, he stated.

Councilman R. Adams stated that he felt it was unfair for the Authority to place the Council in the position of making the decision on the lease. That it was the Authority's problem. He stated that he wished the records to show that the Council did try to have a meeting with the Authority previously and only two members attended.

Mayor Marks stated that he believed that the property should be used for parking and that if the lease was signed that it would be tied up for at least 18 months. He stated that he would like to second Mr. Arata's motion. The City Attorney pointed out that Mr. Arata had not made a motion but had only recommended that the lease not be signed.

There was some discussion on getting rid of the property and buying lots in a more desirable location.

Mr. Carmody stated that his only objection to the property was that cheaper property could be purchased in a more desirable location.

Councilman R. Adams pointed out that if the bond revenue program was approved, the Council would have to sell the bonds; that a suggestion had been made by one of the Authority members at the last meeting with the Council that the authority had discussed the possibility of the members resigning as an authority and to act in an advisory capacity. "This being in mind, we recognize that in the April Election we will have to have assistance from the Chamber of Commerce and other interested groups," he stated, "It would appear to me that at this time we should have an early meeting with the Authority to clear out what we are going to do now if the bond election is successful--what the Authority is going to do in the interim and present this question of the mix up and let the Authority decide if they want to go ahead with the development of this Bee property instead of us talking around in circles. Let's disapprove of the installation of a parking lot on the Bee and Bava property and get a sound program.

The City Attorney pointed out that the charter amendment would provide for the dissolution of the Authority and until that time there was no legal way to terminate it.

Mr. J. L. Hamilton stated that it was his opinion that the Authority should not ask the Council to take the responsibility of advising on the signing of the lease.

Mr. Bomberger pointed out that Mr. Zimmerman, for years, had been renting the building on a month to month basis. He pointed out if the Bee property was improved for parking that it would be a benefit to the Bava building.

Mayor Marks stated he considered it a moral obligation to the taxpayers that the Council advise the Authority not to sign the lease, that if the land was not to be used for parking that it should be sold.

Councilman R. Adams expressed the opinion that no lease should be granted.

Councilman Annan recommended that a lease be signed.

Councilman Mellis moved, seconded by Councilman Annan, that the Council recommend to the Parking Authority that the lease be signed and in the meantime it should take the necessary steps to sell the property providing they do not lose any money and that an effort be made to buy cheaper land as outlined in the Traffic Engineer's report.

Mayor Marks moved a substitute motion, seconded by Councilman Arata, that the Council recommend to the Parking Authority that the lease not be signed and that all the facts on the possibility of buying cheaper property be obtained.

The City Manager stated that he wished it to be made clear that his comments on Mr. Carmody's report was only that it was Mr. Carmody's job to obtain the statistical facts and figures and to present them. Other factors have been brought up in this discussion, he stated, on the use of the lot for parking, which must be considered.

Councilman Mellis pointed out that the property would be more valuable from the standpoint of selling it, if the building was occupied by the present tenant. That not much could be accomplished in improving the property in one year, that Mr. Zimmerman had signed the lease in good faith, the Authority had directed the attorney to prepare the lease and that Mr. Zimmerman should not be "let down". Mr. Annan concurred in Mr. Mellis' statements.

Councilman M. Adams recommended that the matter of the lease be held up temporarily.

Attorney Grimes pointed out that the question to be considered was the signing of the lease, that the Authority had already indicated its intention to develop the Sava property, which was within its jurisdiction--that all it was asking for from the Council was "guidance in signing the lease".

Lawrence Robinson, who was present, stated that it had been the feeling of the Chamber of Commerce members, that the Authority was in the parking business and not in the business of renting property, and that this property should not be used for other purposes.

Mr. Bomberger stated that Mr. Zimmerman had been warned when he questioned the advisability of signing the lease, that it would be best to do so since in dealing with a governmental agency "anything can happen".

It was unanimously agreed that Mayor Marks' substitute motion, seconded by Councilman Arata, be amended to provide that the Council recommend to the Authority that the lease be signed. The Clerk called the roll on the motion.

Ayes: Councilmen: R. Adams, Arata, and Mayor Marks  
Noes: Councilmen: M. Adams, Annan, and Mellis

Mayor Marks declared that the motion did not carry.

Councilman Mellis, with the approval of Councilman Annan who seconded the motion, and the Council, withdrew his motion and substituted the following: that the Council recommend to the Parking Authority that the lease be signed, which was seconded by Councilman Annan. The Clerk called the roll on the motion.

Ayes: Councilmen: M. Adams, Annan, and Mellis  
Noes: Councilmen: R. Adams, Arata and Mayor Marks

Mayor Marks declared that the motion did not carry.

Councilman Arata moved, seconded by Councilman Annan, that the letters from the Chamber of Commerce and the Merchants Association be referred to the Parking Authority. The Clerk called the roll.

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mayor Marks  
Noes: Councilmen: Mellis

Mayor Marks declared the motion carried.

COPIES OF PROPOSED ORDINANCE RELATING TO FORMATION OF PARKING COMMISSION DISTRIBUTED BY CITY ATTORNEY FOR COUNCIL CONSIDERATION

City Attorney Grimes distributed copies of a proposed ordinance, creating a Parking Commission, to the Council members for their study, the adoption of which would be in order after the adoption of the charter amendment. He stated that copies had also been distributed to the Authority members.

A discussion was held on the possibility of holding further joint Authority-Council meetings and it was agreed that the Authority should be contacted to determine an agreeable time.

REPORT ON SALE OF SURPLUS PROPERTY

Director of Finance Lawrence reminded the Council that the city was holding a public auction on Saturday, October 30, at the corporation yard, with a licensed auctioneer auctioning off the surplus material and equipment at 10:00 A.M. and the abandoned property at 2:00 P.M.

REPORT ON LEAGUE CONFERENCE

The City Manager reported that at the League of California Cities convention held in Los Angeles, October 18-20, Modesto was well represented and valuable information was received by all attending. He reported that Modesto's City Attorney Allen Grimes had been elected the Vice President of the City Attorney's Division of the League.

REPORT ON MODESTO'S ENTRY IN THE "ALL AMERICA-CITIES CONTEST"

Lawrence Robinson, Jr. reported that Modesto's entry in the All America-Cities Contest was one of the final 22 out of 163 entries. He stated that he had received a notice from the organization that Modesto should send a representative to appear before the jury in Kansas City at 2:15 P.M., November 9, at which time a decision is to be made. He pointed out that the representative should be a citizen rather than a member of the governing body. He proposed the name of Dr. Robert Moon. He stated that Dr. Moon was willing to attend the meeting. It was suggested that the City of Richmond, which was one of the 1953 winners, be contacted.

Councilman Annan moved, seconded by Councilman M. Adams and it was unanimously carried, that Mayor Marks appoint a committee of two Councilmen empowered to make all the necessary arrangements for Modesto's representation to the meeting.

Mayor Marks appointed Councilmen R. Adams and Annan as a Council Committee.

ADJOURNMENT

Councilman R. Adams moved, seconded by Councilman M. Adams which was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 11:25 P.M.

ATTEST:

  
 REX E. GAILFUS, CITY CLERK

November 3, 1954

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 Building, 14th and I Streets.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Dr. Alan Goozee, pastor of the First Methodist Church.

#### APPROVAL OF MINUTES OF COUNCIL MEETING

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

#### DENY PERMIT TO MONTGOMERY WARD TO DISPLAY MALL-TOOL EXHIBITION TRUCK

Mr. Roy Rees, Manager of Montgomery Ward Company, appeared before the Council and requested permission to park the Mall-Tool Company exhibition truck in front of its store, 1015 10th St., for one day, November 17, to display and demonstrate the various tools made by the company.

Mayor Marks stated that it had been the practice of the Council not to permit the use of city streets for advertising purposes and suggested that the truck be displayed in the parking area in rear of the store.

City Attorney Grimes reviewed the provisions of the Municipal Code under which a permit could be granted to use the city streets.

Mr. Rees stated that other stores in the city also sold these tools. He pointed out that traffic congestion in the alley at the rear of the store would hamper the exhibition. To a suggestion from the Council that the truck be parked on a lot, Mr. Rees pointed out that his company had made the arrangements for the display and wished the truck to be parked close to its store.

Councilman Mellis moved, seconded by Councilman Annan, that permit be granted to Montgomery Ward Company to park the Mall-Tool Company exhibition truck for one day, Nov 17 in front of its store, 1015 10th St. providing that the applicant hold the city harmless from and against any and all costs, damages and liability arising out of this operation

Councilman Annan stated that he had seconded the motion because he believed that each case of this kind should be considered separately, that the Council should not prejudge these cases, that if it became a nuisance and interfered with traffic or any of the provisions of the ordinance, that the permit be discontinued. He stated that the city never had a case of this sort which had become a hazard and suggested that this case be used as a test case.

Mayor Marks called for a vote on the motion and declared that it had not carried.

#### LETTER FROM MODESTO COMMUNITY ATHLETIC ASSOCIATION

A letter from the Modesto Community Athletic Association  
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advising that its Board of Directors had voted to field a team in the California League next year, was read. The Association requested that the city rush the completion of the ball park so that it could be used at the beginning of the season.

Councilman Arata reported that Floyd E. Benson, President of the Association, and he planned to visit Fresno shortly to study its plan for the new baseball park and team.

The City Manager reported that settlement of the loss by fire at the ball park was progressing and that a precise figure would be named by the adjuster shortly, at which time the Council committee would be consulted. He reported that plans for the new park in Stockton had already been obtained. It was agreed that the City Manager and Business Manager of the Ball club should confer on the plans and present suggestions to the Council.

MAYOR MARKS RECEIVED REQUEST FROM GOVERNOR KNIGHT TO APPOINT LOCAL CITIZEN AS CHAIRMAN OF "SAFE DRIVING DAY"

Mayor Marks read a letter which he had received from Governor Knight asking him to appoint a local chairman for the national "Save Driving Day", which would be observed Dec. 15, 1954. Council members suggested various person for the Mayor's information.

FINAL ADOPTION OF ORDINANCE NO. 3-C.S. REGULATING INSURANCE REQUIREMENT FOR AMBULANCES

Ordinance No. 3-C.S., entitled: "AN ORDINANCE AMENDING SECTION 6-7.101 OF ARTICLE 1 OF CHAPTER 7 OF TITLE VI OF THE MODESTO MUNICIPAL CODE REGULATING AMBULANCES", having been heretofore introduced and ordered printed and published at the regular meeting of Oct. 27, 1954, Councilman R. Adams moved, seconded by Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote;

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

ORDINANCE REGULATING THE USE OF SEARCHLIGHTS AND REPEALING SECTION 4-2.27 OF THE MUNICIPAL CODE

Councilman Mellis moved the introduction and passage to print of

ORDINANCE NO. 5-C.S.

entitled: "AN ORDINANCE ADDING ARTICLE 12 TO CHAPTER 7 OF TITLE IV OF THE MODESTO MUNICIPAL CODE, REGULATING THE USE OF SEARCHLIGHTS AND REPEALING SECTION 4-2.27 OF SAID CODE", which motion being duly seconded by Councilman M. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPROVE UTILITY EASEMENT AGREEMENT WITH CHARLES TOCALINO ET UX

The City Attorney presented for Council consideration, a utility easement agreement from Charles and Teresa Tocalino, relating to the sanitary sewer trunk-Tuolumne River crossing. Councilman Annan introduced

RESOLUTION NO. 54-345

seconded by Councilman Arata approving the easement agreement between the city and Charles and Teresa Tocalino, authorizing its execution by the city's designated officials and its recordation by the City Clerk with the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPROVE AGREEMENT WITH ORRICK, DAHLQUIST, HERRINGTON AND SUTCLIFFE-RELATING TO REVENUE BONDS FOR PARKING FACILITIES

The City Attorney presented for Council consideration, an agreement with Orrick, Dahlquist, Herrington and Sutcliffe, bond counsels, relating to the proposed charter amendment regarding revenue bonds for parking facilities. Councilman Merrill introduced

RESOLUTION NO. 54-346

seconded by Councilman Arata, approving agreement with Orrick, Dahlquist, Herrington and Sutcliffe, bond counsels, relating to the proposed charter amendment regarding revenue bonds for parking facilities, and authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

AUTHORIZE REFUND OF OVERPAYMENT OF MILL LICENSE TO THREE "B's" LIQUOR STORE

The City Manager reported that the Three B's Liquor Store, 1601 Yosemite Blvd, had filed a claim for overpayment of mill license in the amount of \$32.60, which had been checked by Director of Finance Lawrence and found to be in order. The error had occurred, he stated, when the store's accountant failed to take a deduction for liquor sales from the gross receipts. He recommended that the claim be allowed. Councilman Annan introduced

RESOLUTION NO. 54-347

seconded by Councilman R. Adams, allowing the claim of Three B's Liquor Store for overpayment of mill license in the amount of \$32.60, and directing the Director of Finance to draw warrant in payment, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

REQUEST FOR VARIANCE TO SECTION 7-1.203 (c) OF MODESTO MUNICIPAL CODE-  
MODESTO CITY SCHOOLS-AGRICULTURE BUILDING AT MODESTO JUNIOR COLLEGE

The City Manager stated that a request for a variance to section 7-1.203 (c) of the Modesto Municipal Code had been filed by the Modesto City Schools. The schools requested that it be permitted to substitute asphalt paving in the sidewalk area fronting the new Modesto Junior College Agriculture building. The Director of Public Works recommended that permit be granted since adequate facilities for pedestrian traffic was being provided on private property of the schools. Councilman M. Adams moved, seconded by Councilman Merrill, and it was unanimously carried, that the variance to section 7-1.203 (c) of the Municipal Code, requested by the Modesto City Schools relating to the construction of sidewalks

at the Modesto Junior College Agriculture building, be approved.

AUTHORIZE AMENDMENT TO AGREEMENT WITH CODDING HOMES ON McHENRY VILLAGE SUB-DIVISION NO. 1

The City Manager stated that the agreement, dated July 7, 1954, between the city and Coddling Homes for the furnishing of sewer and water facilities and the development in the McHenry Village Subdivision #1, located north of the McHenry Village, and presently outside the city, provided for the payment in advance of all the park fees and the depositing of funds to cover the purchase of materials required for street lighting, for the entire 34½ acres in the subdivision. The Company is presently developing only one third of the subdivision. The final map for this portion of the subdivision has been approved and Mr. St. Johns has asked that the Council permit the Company to pay fees at this time only on that portion of the subdivision which is being developed. The balance of the fees would be paid as the subdivision is developed, the City Manager stated. Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the City Attorney be directed to prepare an amendment to the agreement which would permit the payment of fees only on that portion of the subdivision which is being developed.

REPORT ON SALE OF SURPLUS AND ABANDONED MATERIALS AND EQUIPMENT

Director of Finance Lawrence reported on the sale of surplus and abandoned materials, which had been held at the City's Corporation yard, Saturday, Oct. 30.

He reported that approximately \$3,150.00 would be realized from the sale. Sale No. 1 on surplus materials, approximately \$2900 was received and in sale #2 on abandoned and stolen property of the Police Department \$250 was received. Approximately 250 people attended the two sales, he stated. A licensed auctioneer was employed at a cost of \$100, which also included the services of one helper. The city benefited not only from the money received, but also from the extra storage space made available by the removal of this property from the city premises.

REPORT ON PROPOSED CHARGE FOR USE OF DISPOSAL AREA BY GARBAGE COMPANIES

City Manager Miller reported that until the accountant of the Modesto Garbage Company had submitted a report on the company's operating costs at the new disposal area, precise information would not be available to determine the revised license fees or general charges.

At present there are other companies picking up garbage in the city, the City Manager stated, at city garbage rates, which are forced to haul the garbage to the county disposal area. Since this means undue costs to them, in fairness to them, an interim arrangement should be worked out permitting them to use the city disposal area.

A proposal for Council consideration, he stated, is that the various companies operating in the city, should be permitted to use the city disposal area at a charge of \$2.50 per load, one half of this charge could go to the Modesto Garbage Company for operating the disposal area and one-half to the city to help defray for providing the disposal area. It should be made clear, he stated, that this would not apply to individuals but only to companies operating in the city. Permission should not be given to individuals to dump at the city's disposal area until it can be determined how much of the land will be needed by the sewage disposal plant and more facts are determined on the operation of a disposal area at this location.

The City Attorney presented for Council consideration a resolution establishing charges for the use of the disposal area by garbage collecting companies.

Councilman M. Adams introduced

seconded by Councilman Merrill, providing for the operation of the Municipal disposal area and establishing charges for the use of said disposal area by garbage collecting companies, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

REPORT ON ANALYSIS MADE BY WM. BELL-GOLF ARCHITECT ON POSSIBILITY OF USING PRESENT NINE HOLE GOLF COURSE IN THE DEVELOPMENT OF NEW PROPOSED 18 HOLE COURSE

Copies of a letter received from Wm. Bell, Golf Architect, concerning the "possibility and desirability of building a 9 hole golf course on the Durand property in such a manner as to use the city owned property adjacent to the Durant property and connect this new 9 hole course with the existing 9 hole golf course to form an 18 hole golf course", were distributed to Council members for their study.

Mayor Marks suggested that copies of the letter be made available to members of the Planning Commission and the Director of Planning. He pointed out that the Commission should have been consulted on this problem, to which the Council concurred.

The City Manager pointed out that the figures shown in Mr. Bell's report were not precise and the value placed on the Durand land was "very rough" and should not be considered as being any commitment on the part of the city or the owner as to the value of the property. He pointed out that Mr. Bell was asked to "submit a quick report", which he had done.

Councilman Arata questioned Mr. Bell's statement, "There would be a considerable distance between the two nines as the ball park is between them and this is definitely not desirable."

Mayor Marks pointed out that the Planning Commission had been by-passed entirely in the discussion on the location of the golf course and it should be asked to "take a look" and submit a recommendation, in the interest of the city, where the location would fit in best in the long range plan for the development of the city.

Councilman M. Adams pointed out that the Planning Staff had a tight schedule to meet on the preparation of the zoning ordinance.

Councilman R. Adams advised that the Council committee would have a report on the cost of the Durand property prior to the time the agreement with Mr. Dryden on the gift of the land, would expire.

The City Manager reported that a survey was presently being made on the Durand property so that a precise picture could be had as to just how the acreage would fit in with the plans.

The City Attorney pointed out that it would take considerable time for the Planning staff to prepare a report, even if the matter was referred to the Commission and that might delay the completion of the zoning ordinance.

It was generally agreed that the Commission's report would be a "quick look", at the matter.

Councilman Arata moved, seconded by Councilman Merrill, and it was unanimously carried, that the matter of the location of the golf course be referred to the Planning Commission for a report from the standpoint of economy and planning.

The City Attorney asked that it be made clear to the Commission whether it was to relate its report to other matters of capital improvement.

It was agreed by the Council that the report was only to relate to the matter of the location of the golf course from a recreation and planning standpoint and not to establish any priority.

Councilman Mellis cautioned the Council that the time, to consider the generous offer of land made by Mr. Dryden, was short and should not be wasted.

The City Attorney recommended that a date be set for the submission of the Commission's report and the City Manager recommended Nov. 17 be established, at which time he would also submit a report on the method which might be used in completing the project. A report on costs and acquisition of the land could be submitted by the Council committee at the same time. Mayor Marks recommended that the City Clerk contact the Citizens Committee for Recreation Improvement, and ask that a report be submitted by Nov. 17 on the amount of money collected.

REPORT BY COUNCIL COMMITTEE ON ARRANGEMENTS FOR ATTENDANCE OF CITY REPRESENTATIVES TO ALL AMERICA CITIES AWARD JURY MEETING IN KANSAS CITY

Councilman Annan reported that the Council committee to make arrangements for the city's representation before the jury of the All America Cities Award in Kansas City Nov. 8-9, had met and agreed on the appointment of Dr. Robert Moon. The committee would also like the Council to consider sending the City Manager to assist in the presentation before the jury. The Council concurred in this suggestion.

The City Manager reported that the City of Richmond, the winner of the 1953 award, had been contacted. He requested and received permission from the Council to be absent from the Nov. 10 Council meeting.

REPORT ON ENDEAVOR OF MODESTO JUNIOR CHAMBER OF COMMERCE TO BRING THE JUNIOR CHAMBER INTERNATIONAL HEADQUARTERS TO MODESTO

The City Manager reported that final decision on the location of the Junior Chamber International headquarters would be made within 30-60 days.

ADJOURNMENT

Councilman Merrill moved, seconded by Councilman M. Adams, and it was unanimously carried, that the Council meeting now in session adjourn. 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 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 building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. Dale Sherwood, assistant pastor of the First Christian Church.

City Manager Miller being absent from the City, Carl Millar, Assistant City Manager acted in his place.

#### DISCUSS PROGRAM ON CONTROL OF AIR POLLUTION

With the approval of the Council, Mayor Marks reviewed the final report of the Forward Modesto Committee, Study Group #4 (b) Air Pollution.

The time schedule of recommendations of the group, he stated, was that during the year 1954-55 an area wide survey of the air pollution problem should be made, and during the year 1955-56 air pollution standards be established and an air pollution ordinance be drafted and adopted.

He pointed out that temperature inversion, causing valley smog, was here now, that many days up to 3,000 feet, there was a temperature inversion in this area.

He stated that any ordinance adopted should not impose too difficult standards for industrial concerns and that any action taken should be consolidated with the county and other adjoining cities in this area--valley wide and all working together.

He stated that the group's suggestion "that Senator Homer E. Capehart's amendment to the Housing Act of 1954 be supported by writing a letter or sending a telegram" be investigated to determine the outcome of this legislation.

Councilman Mellis pointed out that Modesto's smog problem was minor compared to Los Angeles and San Francisco and that the regulation should be on a statewide basis. He questioned how Modesto could solve this problem when larger cities had not solved theirs. He questioned the advisability of taking any local action at this time which might "scare" industry from the city. He pointed out that the Governor had promised at the League Convention that state legislation would be instigated. A small city like Modesto, he stated, is helpless from the financial point of view.

Mayor Marks stated that he considered it advisable for the city to make its position known on this matter--that it is the city's problem as well as the problem of the whole valley. This should not go by default, he stated. "We have a job to do to let everybody know that Modesto wants to do its part to keep this northern part of the state clear and free from air pollution." However, he stated, the legislation should be state wide. The governor should know that Modesto is backing him up. He proposed that the city should get together with the county and other cities and send letters to the governor and legislative representatives, signifying willingness to work together. He suggested, to which the Council concurred, that he prepare a draft of a letter, for Council consideration at its next meeting, copies of which could be sent to other cities, expressing willingness to join in on state wide legislation. These other cities could also send individual letters, he stated.

Councilman Mellis recommended that Mayor Christoffersen of Turlock be  
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asked to place this matter on the agenda for consideration at the next city-county meeting.

FINAL ADOPTION OF ORDINANCE NO. 5-C.S. REGULATION OF SEARCH LIGHTS

The City Attorney pointed out that it had been brought to his attention that through oversight the fees established in Ordinance No. 5-C.S. (regulation of search lights), which was up for final adoption at this meeting, were not in accordance with those originally proposed and discussed by the Council. It was agreed by the Council that rather than delay the effective date of the ordinance that it be finally adopted at this time and that if it proved to be unsatisfactory that further consideration be given to the fee schedule.

Ordinance No. 5-C.S. entitled: "AN ORDINANCE ADDING ARTICLE 12 TO CHAPTER 7 OF TITLE IV OF THE MOLESTO MUNICIPAL CODE REGULATING THE USE OF SEARCHLIGHTS, AND REPEALING SECTION 4-2.27 OF SAID CODE", having been heretofore introduced and ordered printed and published at the regular meeting of November 3, 1954, Councilman Merrill moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

ACCEPT IMPROVEMENT OF TULLY AVENUE, BETWEEN PRINCETON AVENUE AND CECIL WAY FROM CONTRACTOR M. J. RUDDY & SON

The Director of Public Works reported that the improvement of Tully Avenue, from Princeton Avenue to Cecil Way, had been completed according to the contract by Contractor, M. J. Ruddy & Son. He stated that due to the nature of the work and the complication arising from the use of new material that the contractor had not been able to complete the job on the specified date, which had been extended to October 29. The only additional expense incurred by the city was minor inspection fees, he stated. He recommended that the project be accepted by the Council and that no liquidated damages be collected; that Notice of Completion be filed with the Stanislaus County Recorder and payments as due be authorized. Councilman Mellis introduced

RESOLUTION NO. 54-349

seconded by Councilman R. Adams, accepting the project from the contractor, M. J. Ruddy & Son, for the improvement of Tully Avenue, between Princeton and Cecil Way, waiving liquidated damages, authorizing the recording of Notice of Completion with the Stanislaus County Recorder, authorizing the payments as due, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks

Noes: Councilmen: None

Absent: Councilmen: None

APPROVE AMENDMENT TO AGREEMENT WITH CODDING HOMES FOR DEVELOPMENT OF McHENRY VILLAGE SUBDIVISION NO. 1

Pursuant to instruction by the Council, City Attorney Grimes presented for its consideration an amendment to the agreement between the city and Coddling Homes for the development of McHenry Village Subdivision No. 1, providing for the payment of the fees as the subdivision was developed. Councilman Annan introduced

RESOLUTION NO. 54-350

seconded by Councilman Merrill, approving the amendment to the agreement dated July 7, 1954, between the city and Coddling Homes providing for the payment of

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the fees as the McHenry Village Subdivision No. 1 is developed, authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE AND ACCEPT AGREEMENT WITH MODESTO TALLOW COMPANY RELATING TO SEWER EASEMENT--TUOLUMNE RIVER CROSSING

The City Attorney presented for Council consideration sewer easement agreement with the Modesto Tallow Company relating to the Tuolumne River crossing. Councilman Arata introduced

RESOLUTION NO. 54-351

seconded by Councilman Merrill, approving the sewer easement agreement with the Modesto Tallow Company, authorizing its execution by the city's authorized officials and directing the City Clerk to record the agreement with the Stanislaus County Recorder, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DISCUSSION ON SEWER PLANT

Councilman Annan asked the Director of Public Works what affect the sewage from the slaughter houses would have on the city's disposal operations and whether it would effect the salmon in the Tuolumne River.

The Director of Public Works pointed out that at present most of the blood was being trapped and utilized. The worst that can happen to the city, he stated, is that it would be necessary to operate the industrial plant on a year round basis but this might occur anyway as industry increases in this area. He pointed out that certain types of slaughter house waste would be beneficial in the digestion of the sewage wastes.

Councilman Annan pointed out that the treatment of commercial waste was still in the "trial and error" stage and that "we can not be assured of what the result will be and that there still might be a problem as far as odors are concerned. It is the opinion of everybody that the city is erecting a plant that will handle all wastes without the addition or necessity of buying chemicals to treat the industrial waste during certain seasons. If this plant when completed, cannot do this without the addition of these chemicals and if future Councils must put in their budgets each year a sum of money for the acquisition of these chemicals, the Council and the people should know it." He pointed out that the plant erected for the City of Hayward, under the supervision of Harry Jenks, Sanitary Engineer, who is also supervising the construction of Modesto's plant, was not handling Hayward's sewage waste without odor.

Mayor Marks recommended that discussion be withheld until the reports on the studies of the operation of the plant in Hayward were available. He pointed out that at the time Mr. Jenks first discussed the disposal plant with the Council, he had pointed out that Modesto had two choices to consider, 1) a remote disposal area, which would require an immediate capital expenditure two and one-half times more than the plant now being constructed, or 2) the type of plant now being constructed where the capital investment is not as much and which could be constructed on a stage development plan with the ultimate end in view of making that area available for recreational facilities. If plan two was selected, Mr. Jenks had stated that it would be necessary to use chemicals certain times of the year. Mayor Marks pointed out that the plant

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was proceeding according to the original plan.

Councilman Mellis stated that the committee's report would be available shortly. He stated that from his observations he believed that it would be in order to consider the preparation of the plans and specifications immediately for the building of the additional bio-filter and large clarifier which would ultimately be needed to treat domestic waste. He pointed out that the sewage problem of each city was different, due to the various types of industrial operations and that sanitary engineering was a new field, subject to constant changes. He pointed out that Modesto had benefited materially by its studies of the Hayward plant. He considered that Modesto could not completely treat its sewage without the use of chemicals.

The Director of Public Works stated that he wished to make it clear that Modesto would continue to have the problem of operating costs--the use of chemicals during certain seasons--which was due to the peculiar nature of the community in which large seasonal processing plants were operated. Until the complete results of the survey of the Hayward plant are available, he stated, final determination should not be attempted. Money expended in this survey, he stated, is some of the best spent money this city has ever spent. He expressed appreciation to the Council for its approval of this type of survey. He stated that individual reports were being prepared by the four participants, Modesto, Hayward, Dorr Company and Harry Jenks. These individual reports would be pooled and a consolidated report prepared. All these reports will be available for Council study. His report would be completed by November 18 and the city would be in a position, by the first of the year, to proceed on a firm basis with its plans for the plant.

Councilman Amman stated that it was fortunate for Modesto that the Hayward plant had been available for study, that Modesto had learned many things in the construction of sewer plants from this observation. "You will learn more and more about these things as time progresses", he stated, "which indicates in itself that our present building could be improved upon." He stated, "All I want is for this information to be known to the people of Modesto--that it is impossible to be certain that the plant is going to do the work or not. I would like to have Mr. Jenks come over for a public meeting and to submit a list of the things this plant will accomplish and what it will not do. We should have this information before we proceed on the plan. I have no desire to hold up the construction of the plant but my idea is just that the people should know what the problem is. I am a little afraid that we will not be able to do without the ponds. We must not take that land and use it for any other projects."

Mr. Ray pointed out that it was planned to retain the ponds for emergency purposes.

Councilman Amman expressed concern that the odors would still be a problem even after all the expenditures on the plant, that complaints would again be filed with the State Pollution Board and "when you have those nuisance complaints something has to be done about them and I do not want to be in a position of being on the City Council at the time that this plant was designed and constructed and not have it work."

Councilman Mellis questioned whether there would be odors at all and expressed confidence in the plant. He pointed out that Hayward's problems were not identical with Modesto's.

Councilman M. Adams pointed out that Modesto's biggest safeguard was the control of pretreatment of the sewage.

Mayor Marks stated that "our goal is to have a sewage plant that will operate without odor and take care of all the problems. That is our program which we will carry through."

The Director of Public Works pointed out that the sewage received by the City of Hayward was in a highly acid septic condition and that there was

no similar condition at Modesto. He pointed out that neither Mr. Jenks, nor any other sanitary engineer could guarantee to build a plant which would operate without odor when the type of waste coming into the plant was altered.

APPROVE FINAL MAP OF WILKINSON TRACT NO. 2 AND AGREEMENT WITH SUBDIVIDERS

Upon the recommendation of the City Attorney, Councilman R. Adams introduced

RESOLUTION NO. 54-352

seconded by Councilman M. Adams, approving the final map of Wilkinson Tract No. 2, accepting the streets, alleys and easements as shown on the map on behalf of the public for public use; authorizing the City Clerk to certify the map after the fees were paid and authorizing the city's designated officials to execute the agreement with the subdividers, as required by Section 5-4.604 (c) of the Modesto Municipal Code, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

COUNCIL COMMITTEE APPOINTED TO CONFER WITH THE CITY ATTORNEY REGARDING ISSUANCE OF AWARD OF CERTIFICATE OF MERIT FOR RENDITION OF MUNICIPAL SERVICES

Mayor Marks appointed Councilmen Annan and Mellis to confer with the City Attorney to draft a recommendation for Council consideration on the awarding of certificates of merit for the rendition of municipal services, and to present a report at the next meeting.

MAYOR MARKS ISSUE PROCLAMATION ON "SAFE DRIVING DAY"

Mayor Marks reported that he had appointed Robert E. Wooldridge, teacher at the Modesto High School, as the local chairman for the "Safe Driving Day", which had been designated as December 15th by President Eisenhower's Action Committee for Traffic Safety. He also advised that he was issuing a proclamation declaring this date as "Safe Driving Day", as requested by Governor Knight.

APPROVE AGREEMENT WITH FRANK L. HUFFMAN FOR SERVICES AS CITY RIGHT OF WAY AGENT

The City Attorney stated that the present City Right of Way Agent, Fred Freed wished to discontinue his services for the city by January 1 and had recommended the appointment of Frank L. Huffman, who had agreed to serve in this capacity on an hourly basis of \$6.00 per hour. The City Attorney presented an agreement with Mr. Huffman for Council consideration. Councilman Merrill introduced

RESOLUTION NO. 54-353

seconded by Mayor Marks, approving agreement with Frank L. Huffman to act as the City of Modesto's Right of Way Agent, and authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

DELAY CONSIDERATION OF AMENDMENT TO AGREEMENT WITH DALTON P. ELLIS FOR IMPROVEMENT OF BISPO DRIVE

The Director of Public Works reported that the amendment to the agreement with Dalton P. Ellis, subdivider of the College Village Subdivision, for

the improvement of Bispo Drive, was not ready for Council consideration at this time and asked that it be laid over until a later date.

ACCEPT FINANCIAL REPORT FOR MONTH OF OCTOBER, 1954

Copy of the financial report of the City of Modesto for the month of October, 1954, filed by the Director of Finance, was ordered filed in the office of the City Clerk.

CITY ATTORNEY REPORT RECEIPT OF REPORT FROM BOND COUNSELS, ORRICK, DAHLQUIST, HERRINGTON & SUTCLIFFE ON CHARTER AMENDMENT RELATING TO PARKING

Mayor Marks asked the City Attorney to furnish the Council with a report on the suggested changes made by the bond counsels, Orrick, Dahlquist, Herrington, & Sutcliffe, in the proposed charter amendment relating to parking facilities.

COUNCILMAN MELLIS ASK FOR REPORT FROM CITY MANAGER ON PROGRESS IN PURCHASE OF FIRE TRUCK

Councilman Mellis asked that a report be submitted to the Council as soon as possible on the progress being made in the purchase of the fire truck which had been budgeted in the 1954-55 budget.

ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman R. Adams and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 9:00 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 building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

Absent: Councilmen: None

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

Invocation was given by Rev. H. O. Black, pastor of the Baptist Temple Church.

LETTER FROM C. S. ZIMMERMAN - RE: POSSIBLE RELOCATION OF THE TIDEWATER SOUTHERN TRACKS

A letter was read from C. S. Zimmerman, acknowledging receipt of the copy of the minutes of the Council Meeting of October 13, in which a report was made by the City Attorney on the meeting held with representatives from Stockton and Fresno on railroad problems. He expressed confidence that "wisdom and justice" would be applied in the final solution on the relocation of the Tidewater Southern Railway tracks in the city.

LETTER FROM ROBERT E. WOOLDRIDGE ACCEPTING APPOINTMENT AS LOCAL CHAIRMAN OF "SAFE DRIVING DAY" COMMITTEE

Mayor Marks read a letter from Robert E. Wooldridge, accepting his appointment as local chairman of the "Safe Driving Day" committee, which is to be observed nation-wide Dec. 15, 1954.

DENY REQUEST OF KLARE'S FOR PERMISSION TO DRIVE ADVERTISING TRUCK ON CITY STREETS

A request was filed by Klare's store, 1026 I Street, for permission to have the "Can't Bust 'Em" rooster drive around Modesto and vicinity for one day.

Mayor Marks pointed out to Mrs. M. J. Vaughn, who was present, representing the store, that permission to use the city streets for this type of commercial advertising was restricted by the terms of the municipal code.

A general discussion was held on whether this type of display would be considered "in the interest of the general welfare" as had been considered of various other exhibits of this general nature which had been granted permission, or whether it was similar to those exhibits which had been denied permission.

Councilman Merrill moved, seconded by Councilman Arata that the request of Klare's store to display the "Can't Bust 'Em" rooster on the city streets be denied. Mayor Marks declared the motion carried.

Councilman R. Adams pointed out that it would be permissible for the store to display the exhibit on some private parking lot. It was agreed that the exhibit could be brought through the city streets to be displayed on the parking lot but could not be paraded through the streets time and time again.

REPORT ON ALL AMERICA CITY PRESENTATION AT KANSAS CITY MISSOURI

City Manager Miller presented Dan Fowler and Earl Thiesen, photographers from Look Magazine, who, he stated, had been sent to Modesto to take special photographs and check out facts and figures to be used in case Modesto was the winner in the contest for the All America Cities award. Mr. Alex Shoob, local photographer, who was assisting was also presented to the Council.

Mr. Miller explained that it was planned to take pictures of the Council meeting now in progress at this time as well as pictures of members of the various commissions and board who had been asked to be present.

Mr. Miller briefly explained the charts, special exhibits and brochure which were on display in the Council Chamber and which had been used in the actual presentation to the Jury in Kansas City on November 8.

Nearly 2000 persons had shown up for photographs at the Mancini Bowl and the Arch on I Street, he reported. He stated that Dr. Robert Moon, who had made the presentation before the jury, had done a fine job.

Dr. Moon, who was present, stated that the focal point of his report was the Forward Modesto Committee report, which had given the citizens view point on a capital expansion program. He stated that most of the cities who had made presentations before the jury had one or several special projects which they talked about but that Modesto was able to show continuing activities, continuing citizens participation, such as the school bond election, Mr. Miller pointed out that the Council's approval of the plan to submit to the voters a proposal for revenue bonds for parking had been mentioned in Kansas City as part of the presentation.

ACCEPT BID OF KEVRY CONSTRUCTION COMPANY ON NORWEGIAN AVENUE SANITARY TRUNK SEWER

Copies of the tabulation of the bids received on the construction of Norwegian Avenue sanitary trunk sewer, which had been opened November 15 at 2:00 P.M. were presented by the Director of Public Works for Council consideration. He reported that the low bid, submitted by Kevry Construction Company of \$17,598.00, was under the engineer's estimate. He recommended that this bid be accepted. Councilman Arata introduced

RESOLUTION NO. 54-354

seconded by Councilman R. Adams, accepting the bid of Kevry Construction Company of \$17,598.00 for the construction of the Norwegian Avenue sanitary trunk sewer, as it was the lowest bid received, as recommended by the Director of Public Works, and authorizing the execution by the city's designated officials, of contract agreement for the completion of the project, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

HOLD OVER CALLING FOR BIDS ON FIRE TRUCK

The City Manager reported that certain matters would need to be cleared before the specification approval and bid call on the new 1250 gallon per minute pumper could be considered by the Council.

REPORT ON SPECIAL PARKING PRIVILEGES FOR VISITING DELEGATES TO CONVENTIONS IN MODESTO HELD OVER

The City Manager reported that the report on the request of the  
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Chamber of Commerce Committee for special parking privileges for visiting delegates to conventions in Modesto would be submitted at a later meeting.

RESOLUTION PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF SERVICE TO FORMER MEMBERS OF THE COUNCIL OF THE CITY OF MODESTO

The City Attorney reported that the Council Committee had conferred with him in the preparation of a resolution providing for the issuance of certificates of service to former members of the Council of the City of Modesto, which he presented for Council consideration. Councilman Mellis introduced

RESOLUTION NO. 54-355

seconded by Councilman Annan, providing for the issuance of Certificates of Service by the Mayor and City Clerk to all former members of the Council who still live in the community, who have not been furnished with appropriate written recognition of such services, and further providing that the certificate be presented in person at a fitting ceremonial service at a regular meeting of the Council, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RESOLUTION ESTABLISHING BUS LOADING ZONE ON COLLEGE AVENUE AT NEEDHAM AVENUE

Upon the recommendation of Traffic Engineer Carmody, Councilman M. Adams introduced

RESOLUTION NO. 54-356

seconded by Councilman R. Adams, establishing a bus loading zone beginning at the northerly curb line of Needham Ave. at its intersection with the westerly curb line of College Avenue and continuing northerly along the west curb line of College Avenue a distance of 50 feet, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE AGREEMENT WITH R. P. C. POPCORN & VENDING COMPANY FOR INSTALLATION OF AUTOMATIC VENDING MACHINES IN THE MADDUX YOUTH CENTER

Provisions of a proposed agreement with the R.P.C. Popcorn & Vending Company, 722 Fifth St., for the installation of automatic vending machines in the Maddux Youth Center, were outlined by the City Manager.

The Director of Parks and Recreation pointed out that this arrangement would relieve the city of the responsibility of handling money from the machine as well as handling this type of merchandise (candy, popcorn and soft drinks) over a counter.

Councilman Mellis pointed out that the 10% which would be allowed the city on gross sales of candy was low, and thought better arrangements could be made.

It was pointed out that if after investigation more profitable arrangements could be made, that the agreement provided for the removal of the machines and the termination of the agreement upon written 48 hour notice by either party.

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Mr. Lowry stated that a large program was planned for Friday, Nov. 19 at the Center and it would be desirable to have the machines installed prior to that date. Councilman Arata introduced

## RESOLUTION NO. 54-357

seconded by Councilman Merrill, approving the agreement with the R.P.C. Popcorn and Vending Company for the installation of vending machines in the Maddux Youth Center and authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

The City Manager stated that an endeavor would be made to see if better arrangements could be made on discount allowed on the sale of candy.

GRANT PERMIT TO LAWRENCE ROBINSON & SONS TO DRILL A WELL

The City Manager reported that the request of Lawrence Robinson & Sons to drill a well on its property located on McHenry Avenue which would replace an existing well, had been checked by both the Public Works and Health Departments. The company has agreed, if permit is granted, to seal off the old well which is useless since the water table has dropped, as recommended by the Public Works Department.

The City Manager stated that up to the present time the city has no regular standards for the granting of permits to drill wells. It would be better, he stated for the city to furnish water, but in this instance city facilities are not available.

Director of Public Works Ray pointed out that each application for drilling of wells should be considered on its own merits. He stated that the main water line was a considerable distance from the company's property and that it would cost several thousand dollars to extend it to serve this property and could not be done in time to save this year's crop.

Councilman Annan introduced

## RESOLUTION NO. 54-361

seconded by Councilman R. Adams, granting permission to Lawrence Robinson & Sons to drill a well on its property located on McHenry Avenue providing the conditions established by the Public Works and Health Departments are complied with, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

DISCUSS SETTING FINAL DATE FOR ACCEPTANCE OF CASH PAYMENT FOR CONSTRUCTION OF FREMONT AND GRANGER LATERAL SEWERS

The City Manager suggested that in view of the experience gained from the North Central Addition, Improvement District #2, that the Council at this time give consideration to the establishment of a cut-off date for the acceptance of cash payments for the construction of sewer laterals in the Fremont and Granger Additions (proposed Improvement District #3), as provided in section 5-6.108 subsection (b) of the municipal code.

The Director of Public Works stated that plans were nearly completed for construction of sanitary lateral sewers and installation of street lights in these additions. A tentative schedule for processing of this improvement

district has been estimated to be as follows:

- 1- Plans and specifications can be completed by Dec. 15, 1954, for construction under improvement district proceedings; however, it would require two weeks after a cut-off date in order to finalize the plans and make any changes required therein due to contribution of cash funds.
- 2- It would require one week to obtain names and addresses of property owners in the area.
- 3- It would require ten days after plans are completed for preparation of estimated assessments.
- 4- If we are simply to notify through the press and radio of a cut-off date for property owners in these areas, this date can be set today with a suggested date being December 21. This is the first alternative. As a second alternative, if it is necessary to inform all property owners by mail and at the same time inform them of estimated assessments under an improvement district, it would be necessary to suggest a cut-off date not earlier than January 25, 1955. It is recommended by the Director of Public Works that the first alternative be used in the interest of saving time.
- 5- It will require two weeks after the plans are sent to the bond attorney to pass the Resolution of Intention, etc. instituting proceedings under improvement district statutes. If the first alternative under No. 4 is used, and action by the Council could be taken on these documents about January 19, 1955. Under the second alternative this could not be done until about February 23.

The City Attorney recommended that the second alternative be considered and notices be sent to the owner of each parcel of property as appeared on the last assessment roll.

It was suggested that only one notice be sent to each property owner which would combine the final cut-off date, the estimated cost under the assessment district, and the cash fee.

Director of Public Works Ray stated that if the second alternative was selected, it would be advisable to have the plans completed before the Council set the cut-off date to avoid having people requesting information before the city had it available.

The City Manager pointed out that the Council could indicate its selection of the alternatives at this time and when the plans were completed consideration to the cut-off date could be given by the Council at that time.

The Council agreed that alternative #2, calling for notices being mailed to property owners be selected, after a poll by the Mayor and Councilman M. Adams moved, seconded by Councilman Arata and it was unanimously carried, that the City Manager and Director of Public Works be authorized to proceed on the basis outlined in alternative No. 2.

A communication from Arthur J. Wylie, owner of the tract of land on the north side of Orangeburg Avenue along the east side of the Tidewater RR tracks, which he planned to subdivide, requesting information regarding the plans for the development of an improvement district in this area, was read. Mr. Wylie, who was present stated that sewer service would be needed in this tract in approximately five months. He indicated that the proposed development of the improvement district would solve his problem of sewer service for the 20 homes he planned to build in his tract. He was asked to confer with the Director of Public Works on the proposed construction of the sewer lateral to determine how the construction would fit in with his plans for the tract.

It was agreed by the Council that only one notice be sent to the property owners in the improvement district which would contain, 1) estimated assessment under the improvement district, 2) cash payment as provided in section 5-6.108, subsection (b) of the Municipal Code and 3) cut-off date for cash payment and that the notices be sent both inside and outside the city by regular mail.

RESOLUTION INSTALLING FREIGHT LOADING ZONE ON EAST SIDE OF NINTH STREET BETWEEN G AND H STREETS

Traffic Engineer Carmody recommended the installation of a 30' freight loading zone between the hours of 7:00 A.M. to 7:00 P.M. on the east side of Ninth Street between G and H Streets in front of the Modesto Electrical Repair Co., 712 9th Street. He stated that there were no freight loading zones in this block and the company did not have access to the rear alley. He pointed out that this block was cut up with driveway approaches and there were only four parking stalls in the entire block. It will be necessary to obtain final approval from the state since this is on a state highway. Councilman Annan introduced

RESOLUTION NO. 54-358

seconded by Councilman Mellis, establishing a freight loading zone beginning at a point on the northeasterly curb line of 9th Street, 142' Northwesterly from the intersection of said curb line with the Northwesterly curb line of G Street and extending Northwesterly along the 9th Street curb line a distance of 30', as recommended by the Traffic Engineer, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ORDINANCE AUTHORIZING ESTABLISHING OF CROSS WALKS BY TRAFFIC ENGINEER

The City Manager reported that Traffic Engineer Carmody had requested Council consideration to the urgent need for the establishing of a mid-block crosswalk on Coldwell Avenue between College and Tully Avenues between the new Junior College Agriculture Building and other J.C. buildings across Coldwell Avenue, for the convenience of the students, and the establishment of no parking zones on both sides of the crosswalk to avoid the possibility of persons coming onto the street from parked cars.

The City Attorney pointed out that the legal problem involved was that the present traffic ordinance only allowed cross walks at intersections and in order to establish a mid-block crosswalk it would be necessary to amend the ordinance. He stated that he had prepared for Council consideration an emergency ordinance amending Traffic Ordinance No. 345-N.S. which would provide for the establishment of crosswalks by the Traffic Engineer. He pointed out that if the Council still considered it advisable for the Council to review each instance where no parking zones, loading zones, crosswalks, etc. were considered that it would be necessary to delay consideration of the ordinance so that it could be redrafted accordingly. He pointed out that these matters could be handled administratively as curb cuts, and removal of trees were now being done, if the Council considered it advisable. He stated the Council could establish the policy and it could be implemented by the administrative staff.

Mayor Marks expressed approval of this suggestion and pointed out that if a person was not satisfied with the administrative decision that it could be then presented to the Council for consideration.

Traffic Engineer Carmody outlined the conditions under which the establishment of crosswalks should be permitted and the type of warning sign

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to be painted on the street warning motorists of approaching crosswalks.

It was pointed out that the present practice of students using the crosswalk, stopping and starting and not continuing across in an orderly fashion, was disconcerting to the motorists. This was generally discussed by the Council and recommendations made that 1) signs be painted on the street asking the students to "move briskly across the street" or something to that effect and 2) ask the cooperation of the school authorities in appointing monitors and controlling the students while crossing the streets in the crosswalks.

The Traffic Engineer pointed out that the Lions Club was working with the city in painting signs on the streets.

Councilman Mellis moved the adoption and passage to print of

ORDINANCE NO. 6-C.S.

entitled: "AN ORDINANCE AMENDING SECTION 1 AND 6 OF ORDINANCE NO. 345-N.S., AS AMENDED, ENTITLED, 'AN ORDINANCE REGULATING TRAFFIC UPON THE PUBLIC STREETS OF THE CITY OF MODESTO'", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RESOLUTION PROHIBITING PARKING IN SPECIFIED PLACES ON COLDWELL AVENUE BETWEEN COLLEGE AVENUE AND TULLY AVENUE AND ON SEVENTH STREET BETWEEN K AND L STREETS

The City Manager stated that the establishment of "no parking" zones adjoining the crosswalk on Coldwell Avenue could be combined with the consideration of prohibiting parking at the intersection of 7th and L Streets. He briefly reviewed a recommendation made by the Traffic Engineer that due to the accidents at the intersection of 7th Street at L Street that

- 1- Stop ahead signs and markings be installed north and south of L Street on 7th Street
- 2- Supplementary markings stating "stop" adjacent to all stop signs
- 3- That a 40 foot "No Parking Zone" be established on the east side of 7th Street commencing at the southerly curb line of L Street
- 4- The tree trimming crew be asked to investigate the need for trimming trees adjacent to the stop signs at this intersection.

Councilman Annan introduced

RESOLUTION NO. 54-359

seconded by Councilman R. Adams, prohibiting parking in specified places (as outlined in the resolution) on Coldwell Avenue between College Avenue and Tully Avenue and on Seventh Street, between K and L Streets in the City of Modesto, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

MAYOR MARKS READS PRESS RELEASE FROM THE STATE HIGHWAY COMMISSION RELATING TO THE DECISION ON THE ROUTING OF FREEWAY THROUGH MODESTO

Mayor Marks read the following press release which had been phoned  
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to him by the Stockton office of the Highway Department relating to the California Highway Commission's decision on the routing for a freeway through Modesto:

"The California Highway Commission today adopted the routing for a freeway which will eventually carry highway U.S. 99 through Modesto. The Public hearing was held in Modesto, September 24, 1954, at which three general alternate routes were discussed. The Commission adopted an alternate, described at the hearing as the B route, which had been recommended by State Highway Engineer G. T. McCoy, as the most feasible. This route leaves the existing highway in the vicinity of Hatch Road and runs through Modesto about three blocks West of the present 99, and rejoins the existing highway North of the city. At the hearing the B Route was recommended by the Forward Modesto Commission and in detailed reports of the planning consultant and a consulting traffic engineer, who had been employed by the City of Modesto to study the possible routes. The Ceres City Council opposed all of three routes discussed and Mayor C. D. Ludden voiced the city's objection to the B Route as too expensive and disruptive to the City of Ceres.

H. Steven Chase, Charles T. Leigh, and Robert E. McClure, members of the commission who conducted the hearing stated in a report to the full committee "a review of the tentative plans for freeway development through Ceres shows that disruption to the existing traffic street patterns will be kept to a minimum by means of structures and frontage roads."

When the Commission announced in August that it was considering adoption of the route it was emphasized that no immediate construction was proposed on a new routing but that the matter of ultimate location was being considered so that a plan for both highway and for local development could proceed because construction on the new routing could not be immediately financed. The committee had previously allocated funds for an interim project which will convert the existing highly congested three lane highway and bridge over the Tuolumne River to four lane divided to provide immediate traffic relief."

#### DISCUSS SETTING DATE FOR PUBLIC HEARING ESTABLISHMENT OF ONE WAY STREETS

The City Manager stated that consideration of making Tenth Street a one way, southbound street and Eleventh Street a one way, northbound street, was placed on the agenda at the request of the Traffic Engineer for any consideration the Council might wish to give to it, at this time or at some future time. He pointed out that if action were to be taken the fullest publicity should be given since it was a new departure in handling traffic in Modesto. Studies have been made and it is believed that this method would solve some of the traffic congestion as well as eliminate certain types of vehicular accidents.

Councilman Mellis stated that he believed Modesto had not reached the stage where one-way streets were needed. He pointed out that this was a "new venture and we already have a lot of things to complete. We should not open up new issues".

Mayor Marks pointed out that the merchants in the downtown area would be too busy to come to any public hearings before Christmas.

Councilman M. Adams suggested that the Council be given some background of what it might do in clearing the traffic congestion.

Councilman Mellis stated that so many things were already started by the Council and the administrative staff was loaded with a lot of work and suggested instead of starting a new controversial issue of this type that others be finished first.

Councilman Arata recommended that the Council not "get bogged down in a new hassle."

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The City Attorney pointed out that at the present time the Council had a list of pending matters to be determined which covered approximately three pages. He outlined the method he used in handling pending matters in his office and showed the Council a large stack of cards relating to unfinished matters. He reminded the Council that it had pending, without any order of priority, the matters of a parking program, zoning ordinance, garbage program, 18 hole golf course, capital improvement program, sewer program, street improvement, improvement district, drainage program, traffic ordinance, revision of the electrical code, ball park, water company service and Tidewater Southern Railway franchise on 9th Street.

He pointed out that there was "so much time available to do so much work. There is a question of priority as to which project to consider first and dispose of". He stated, "I wish to raise the question of what new project should be authorized to get on the list to be considered. Although it is certainly desirable for a community to be progressive and accomplish a lot of things, I feel that the All America Cities award has indicated that a lot of things have been done in the last 3-5 years. Nevertheless a lot of items are still pending that have not been completed. There is not adequate time available to the staff to develop them and complete them. I feel that people are interested in the usual services that are rendered by the city which the city is obligated to continue to render, such as planning, building permits, leaf removal, etc.- - this must go on. There is a question of what time should be devoted to improvement of those services and to what extent can additional time and effort of the staff be devoted to betterment of existing service and what portion devoted to completion of major projects that are pending? This Council should be appraised that these things exist. You may get impatient at times that certain things are not getting done because of the amount of things still pending before the Council. I do not wish to question the desirability of any of the projects but they should be considered on their merit in the final determination. There is a limit to which any administrative staff can solve these matters and complete them properly. This project (one way streets) would consume a considerable period of time. Experience has indicated whenever this matter has come up it has required the attention of the regular administrative staff to work out all the problems. It would be another project on the list, competing for solution with the pending problems already existing.

Councilman M. Adams agreed with the contentions of the City Attorney but that he wished to know more of the merits of the one-way street system and if it would relieve the city of a lot of traffic problems and whether it was an urgent matter. He contended the Council should know more about it before it was relegated to the background.

Mayor Marks pointed out that the public would approve of changes providing they were imperceptible but considered this too radical a change to avoid a controversy. He pointed out that the pending projects of the lighting improvement district for the downtown district and the revenue bond parking program would call for the 100% cooperation of the property owners and questioned the advisability of considering the one-way street project at this time.

The Traffic Engineer pointed out that the traffic congestion and accident records were the prime matters to be considered in the establishment of one-way streets. He indicated that the present traffic lanes were too narrow for present uses and that with one-way streets the lanes could be widened to nine feet, with three lanes instead of the usual four lanes which would minimize the possibility of accidents involving the opening of car doors.

Mayor Marks directed the Traffic Engineer to continue compiling data on the project which would be considered at a later time after certain pending projects had been completed.

The City Manager pointed out that although an item was placed on the Council agenda, it did not indicate that it was to be approved but merely brought to the Council's attention.

DISCUSS INSTALLATION OF TRAFFIC SIGNALS AT TENTH, COLLEGE AND NEEDHAM AVENUES

The City Manager reported that traffic studies made of the intersection of College Avenue, Needham Avenue and Tenth Street, indicated the need of the installation of traffic signals. He reported that the city already had one signal available and money was available for the others and if the Council agreed generally, that the necessary plans would be presented for its consideration later. The Council concurred in the recommendation and requested the City Manager to proceed on this premise.

DISCUSS TRAFFIC SIGNAL INSTALLATION ON FOURTEENTH AND H STREETS

The City Manager reported that traffic studies were also being made relating to the installation of traffic signals on Fourteenth and H Streets.

REPORT ON PROPOSED APPLICATION FOR FEDERAL ASSISTANCE FOR AIRPORT IMPROVEMENTS

The City Manager reported on a recent conference with George M. Gary, representative of the Civil Aeronautics Authority on the enlargement of the city's airport facilities. He stated that the county had recently indicated willingness to work with the city on the airport project on engineering. Mr. Gary had advised that it was important in making application for Federal funds, to have a complete project in the request. A project application covering only land acquisition, as was recently sent in by Modesto, has an extremely low priority, whereas a complete project, one that the government can be assured will be an actuated unit, has a high priority. Therefore, this makes a lot of difference in consideration by the C.A.A. In purchasing land for runway extension or construction of a new runway, it would be important to provide a clear zone beyond the end. 1,000 feet wide and one-half mile long. Roads and crops of a low growth nature would be permitted in this zone.

County Surveyor Oliver Deatsch and Mr. Gary helped work out Modesto's request for funds for the construction of a parallel runway 5,000 feet long with enough land for extension to 6,000 feet later, as required. This would also require provision for a clear zone of one-half mile by 1,000 feet wide. Such a clear zone totals about 61 acres in area. It was brought out at this conference, the City Manager continued, that it was necessary to have requests proposed by the City of Modesto in the hands of the Los Angeles office of the C.A.A. not later than Monday, November 22. He stated that an application had been prepared for Council consideration for a parallel runway 5000 feet long and providing for sufficient land for a future runway of 6,000 feet and a half-mile clear zone:

Construction:	grading		
	runway construction	\$ 60,000	
	taxi-way construction	141,000	
	field lighting	60,000	
	Total	14,000	
			\$275,000
Land costs (for future runway of 6,000 feet and clear zone)			
	airport--63½ acres	90,000	
	clear zone--61 acres	75,000	165,000
	engineering		25,000
			<u>\$465,000</u>

He pointed out due to the short time available for the filing of the application that it could not be discussed with the County Board of Supervisors but that a meeting had been arranged for Monday, November 22 at 10:30 P.M. and he suggested that the application be approved at this time on the basis of a joint city and county project.

The City Manager stated that government participation on airport facilities, including both land costs and construction is currently at the rate of 54.21 per cent.

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After a general discussion by the Council, Councilman Mellis moved, seconded by Councilman Arata, and it was unanimously carried that the application be submitted to the C.A.A. on the basis that it would be a joint city and county project.

REPORT ON PROPOSED DESIGN OF COLLEGE AVENUE BRIDGE CROSSING OF M.I.D. LATERAL NO. 3

The City Manager reported that plans were nearing completion for the construction of the bridge across the M.I.D. Lateral No. 3, at College Avenue, which would be four lanes in width.

REPORTS ON PROPOSED GOLF COURSE

The City Manager stated that pursuant to the request of the Council that reports would be submitted at this time on the proposed 18 hole golf course by 1) Planning Commission from the planning and economics viewpoint, 2) the Council Committee on the purchase of the Durand property, and 3) from the Citizens Recreation Committee who were collecting funds to assist in financing.

Planning Commission Report

George Smeath, Director of Planning, submitted the report from the Planning Commission, a copy of which is on file in the office of the City Clerk. He introduced two of his associates in the Planning Department, who had assisted him in assembling the report, Roy Potter, Associate Planner and Arthur Stout, Planning Technician.

The summary and conclusion of the report of the Planning Commission was that:

- 1- Modesto will need an 18-hole golf course in the near future
- 2- The general area under study is suitable for such purpose
- 3- Chief variables which may affect the area are the proposed freeway and the the program of flood control
- 4- If it is determined to go ahead with the project, the course should be constructed upon the Durand and Dryden properties, with the present 9-hole course retained for public use, probably as an area park to serve the residents of the west side of Modesto

The Council commended Mr. Smeath on the excellent report submitted in the short time allotted to him.

The City Attorney reported that several undesirable features on the suitability of the location were discussed by the Planning Commission, 1) location of the chicken ranch owned by the Dryden Poultry Company at one end of the proposed course, 2) proximity of the sewer plant to the course and 3) mosquitos from the river.

The City Manager read Resolution No. 168, adopted by the Commission on November 16, 1954, approving the aforementioned report submitted by Mr. Smeath and authorizing its presentation to the Council.

Report of the Citizens Recreation Committee

A report was filed by Sam Matranga, Jr., President of the Modesto Golf Course, on behalf of the Citizens Recreation Committee, stating that it had collected \$300. in cash and had obtained pledges towards the new proposed Dryden Golf Course in the amount of \$5,600.

The Mayor pointed out that the funds raised by the committee were contributed on the premise that the city would redeem the pledges in advance green fees upon completion of the course. This can be cleared later by the Council, he pointed out.

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Discussion by Council

Mayor Marks stated that he believed that in line with the proposal made by Mr. Dryden on the gift of the land to the city, that it would be permissible for the city to meet the requirements by spending approximately \$45-50,000 for a portion of the Durand property and thus commit the city to develop an 18-hole course in this manner. The offer of the gift of land to Modesto by Mr. Dryden would not be lost then, he stated. Each year an amount of approximately \$20-25,000 could be put in the budget and along with the offers made by the equipment company to grade the course and the Citizens Recreation Committee, the development of the land with due diligence would be assured in the near future, approximately 5-6 years. He stated that he could not condone the "dropping of everything else to getting an 18-hole golf course." He pointed out that the Forward Modesto Committee had recommended the construction of an 18-hole course within a certain period as well as other projects such as the city hall and an auditorium. He recommended that these be taken in the priority order as suggested by the Forward Modesto Committee.

Councilman Arata stated that he was not against the course but that there were a number of other things the city needed first.

REPORT ON COUNCIL COMMITTEE FOR PURCHASE OF DURAND PROPERTY

The City Manager reported that no precise price had been agreed on the Durand property as yet by the Council Committee.

CITY MANAGER LEAVE MEETING AT THIS TIME

The City Manager asked permission to leave the meeting at this time (6:40 P.M.) due to a prior commitment with the photographers from Look Magazine, for additional pictures at the Recreation Center and asked that the Council consider the adoption of a resolution expressing appreciation to the citizens who had given their support so willingly in the activities relating to Modesto's candidacy, particularly when they were requested to appear at the Mancini Bowl and the Arch for photographs this date at 12:30 P.M. He reported that nearly 2,000 persons had turned out on a very short notice.

Councilman Arata suggested that a letter of appreciation be sent to Dr. Robert Moon, for his capable presentation before the jury of the All America Cities Award in Kansas City.

FURTHER DISCUSSION ON GOLF COURSE

Councilman R. Adams stated that he was certain that all the members of the Council felt the same way about the offer of Mr. Dryden--that it was a magnanimous offer. "We all recognize that the city needs an 18-hole golf course but there are a few other things that we also need. If we were given an opportunity to take a deep breath for 18 months or two years, there would not be any question on the course. I am not opposed to it and would hate to lose the opportunity to accept the Dryden property." He asked whether there would be some way the Council or an individual could work out something with Mr. Dryden to assure him that within a reasonable period of time that the course would be developed which would give the Council an opportunity to consider other things more important to more people which could be gotten underway and then the city could take the golf course in its stride.

Mayor Marks proposed a suggestion for Council consideration that 1) the city propose to Mr. Dryden that if the city commits itself to spend \$50,000 the first year to purchase the portion of the Durand property needed and 2) agree to proceed with "due diligence" to develop the course, with the understanding that a more liberal interpretation be given to the term "due diligence". Advise Mr. Dryden, he continued, that if the course was not on the property within 6-8 years that the property could revert to him or his heirs. In this manner, he stated, the city would have shown good faith by putting up the \$50,000 so we are asking for a more liberal interpretation of "due diligence". He again pointed out that the city needed many other things much more than a

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golf course.

The City Attorney questioned the advisability of considering any proposal that would include the possibility of the property reverting to the donor.

Councilman Arata suggested that no time limit be placed on the development of the course either.

Mayor Marks suggested that a certain amount be established which could be used each year to guarantee development.

Councilman Arata objected to "binding any other Council to this commitment."

Councilman Mellis suggested that general obligation bonds be considered since funds would be available to retire the bonds from the revenue received from the one-half sales tax allocated to capital improvement.

A discussion was held on the city's legal bond limit and the approximate additional amount which could be raised in this method. Later in the discussion, Mayor Marks expressed opposition to using this method since there might be a time when the city would have to bond itself to the limit for more urgent needs.

Councilman Annan expressed disappointment at the turning of events in this discussion since, he stated, a great many people wish to see the 18-hole course completed. He asked for clarification on the approximate amount of expenditure actually needed to purchase the Durand property since a number of different quotations had been given in previous discussions. He was advised that Mr. Durand had agreed to sell all or a portion of his property and that the actual number of acres needed could be purchased for approximately \$50,000 (this would not include land for the driving range). He asked for Council permission to approach Mr. Dryden as an individual with the proposition that if the city agreed to buy a portion of the Durand property whether Mr. Dryden would agree to deed his land to the city without any strings attached with the understanding that the city would proceed with "due diligence" to develop the course. Councilmen M. Adams, Mellis and Mayor Marks indicated approval.

Councilman Annan pointed out that contributions from the Citizens Recreation Committee and heavy equipment companies would probably speed up the completion of the course, which the city would be getting free of charge.

The City Attorney asked if the Council was in a position to make a decision without any option at a fixed amount and whether a determination by the Council might increase the price.

Mayor Marks suggested that the Council could approve in principle to proceed with due diligence if it was economically feasible and if Mr. Dryden expressed willingness to accept the fact that the purchase of the land would permit him to deed his property to the city without any string attached.

Councilman Arata stated that if he was asked to vote tonight that he would say "no".

Councilman Merrill wanted more facts before he would approve.

Mayor Marks stated that as far as he was concerned that he could see no objection.

Councilman R. Adams asked if it would facilitate matters if the committee could present at the next meeting a report as to what the Council felt the property could be purchased for.

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REPORT ON COUNCIL COMMITTEE ON CITY HALL

Councilman R. Adams reported that the Council Committee had interviewed a number of architects who had expressed interest in the building of the City Hall. Four of the firms interviewed were local, he stated, and all were considered competent and able to design a suitable building. He asked if the Council wished the committee to recommend one name or a number of names.

It was agreed by the Council that the committee should continue to interview applicants and submit a list of firms, both inside and outside the city for the Council decision.

ESTABLISH PRICE FOR THE MODESTO MUNICIPAL CODE

Upon the recommendation of the City Attorney, Councilman Merrill introduced

## RESOLUTION NO. 54-360

seconded by Councilman Arata, establishing the prices for the public sale of the Modesto Municipal Code as follows:

A special pre-publication price for \$10.00 plus tax

Following the publication of the code, the price is to be \$12.50 plus tax

The price for the purchase of individual title of the code \$1.00 each, plus tax

Cost for receiving the annual replacement service to the Code \$2.50 per year, plus tax

which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RESOLUTION COMMENDING CITIZENS OF MODESTO FOR PARTICIPATION IN THE ALL AMERICA CITIES AWARD PROGRAM

Mayor Marks introduced

## RESOLUTION NO. 54-362

seconded by Councilman M. Adams, that the Council of the City of Modesto go on record as commending the citizens of the city for their participation in the All America Cities Award program, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

RESOLUTION COMMENDING ROBERT MOON ON HIS PRESENTATION BEFORE THE JURY OF THE ALL AMERICA CITIES AWARD

Councilman Arata introduced

## RESOLUTION NO. 54-363

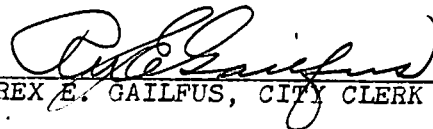
seconded by Councilman Annan, commending Dr. Robert Moon on his presentation on behalf of the city, before the jury of the All America Cities Award in  
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Kansas City, November 8, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ADJOURNMENT

Councilman Annan moved, seconded by Councilman R. Adams, and it was unanimously carried, that this meeting now in session adjourn. The meeting was adjourned at 7:20 P.M.

ATTEST:   
 REX E. GAILFUS, CITY CLERK

November 24, 1954

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 building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: Annan

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

Invocation was given by Rev. Dodds Bunch, pastor of the Centenary Methodist Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the meetings of October 27, November 3 and 10, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### AUTHORIZE PAYMENT OF \$3,000 TO MODESTO RETAIL MERCHANTS

A letter from J. Alan Shorthill, President of the Modesto Retail Merchants, was read, reviewing the activities of the organization and requesting payment of \$3,000, which had been budgeted by the city for the fiscal year 1954-55.

Mr. Shorthill, who was present, expressed appreciation for the assistance given by the city's electrical department in installing the Christmas street decorations.

Mayor Marks and City Manager Miller commended the Retail Merchants on the formation of the Better Business Bureau.

Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried, that payment of \$3,000, amount budgeted by the city for fiscal year 1954-55, be made to the Modesto Retail Merchants.

#### APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS ON CONSTRUCTION OF STORM SEWER IN EIGHTH STREET, BETWEEN L AND N STREETS

Plans and specifications for the storm sewer in 8th Street, between L and N Streets, were presented by the City Manager, for Council consideration. Councilman Arata introduced

#### RESOLUTION NO. 54-364

seconded by Councilman Arata, approving the plans and specifications for the construction of a storm sewer in 8th Street, between L and N Streets and authorizing the calling for bids, said bids to be opened, Dec. 13, 1954 at 2 P.M., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

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DISCUSSION OF CAPITAL IMPROVEMENT PROGRAM FOR YEAR 1954-1955

With the approval of the Council, Mayor Marks brought up the capital improvement program for further discussion. Work sheets listing proposed projects for the years, 1954-55, 1955-56, 1956-57, 1957-58, as follows, were reviewed:

<u>PROJECT</u>	<u>1954-55</u>	<u>1955-56</u>	<u>1956-57</u>	<u>1957-58</u>
City Hall	\$60,000	\$60,000	\$60,000	\$60,000
* $\frac{1}{2}$ Dennett Dam		35,000		
** $\frac{1}{2}$ Downey pool		25,000		
Park Development	15,000	15,000		
Park site or other land acquisition	25,000	25,000		
* $\frac{1}{2}$ Beard Brook Bridge		50,000		
Golf Course	22,000	30,000		
*** Airport Improvement		25,000	28,500	
Unallocated	28,000	35,000	211,500	240,000
Estimated Revenue accrued	\$150,000	\$300,000	\$300,000	\$300,000

\* On the basis that cost would be shared by county.

\*\* On the basis that cost would be shared by schools

\*\*\* On the basis of 54% federal, 11 $\frac{1}{2}$ % city 34 $\frac{1}{2}$ % county

Mayor Marks suggested that the amounts listed on the work sheet for the year 1954-55 be approved by the Council and adopted as a tentative program. In the Council discussion on the amounts allocated to the various projects, Mayor Marks pointed out that;

1-Although \$60,000 was scheduled for the City Hall in 1954-55, there might be a possibility that the total amount would not be expended during this fiscal year.

2-That the improvement of the park area at the old John Muir school and possibly the purchase of the Joe Mineni property on Coffee Road, could be included in the amounts specified.

3-Since the expenditure for the acquisition of additional land for the new golf course could be arranged over a two fiscal year period, the amount of \$22,000 for 1954-55 and of \$30,000 for 1955-56, listed under the "Golf Course" allocation would be sufficient to meet the requirements of the proposed agreement with Mr. Dryden calling for the expenditure of \$50,000 during the year following the completion of the agreement.

4-That if necessary a portion of the unallocated fund of \$28,000 could be used in the proposed airport expansion program and a portion for the improvement of the baseball park, as well as other projects discussed, such as street improvement and storm drain systems.

Councilman Mellis recommended that a "good priority" be given in the 1955-56 project program to the building of an auditorium. He suggested that the schools be contacted to determine if a joint venture could be worked out with the city on the building of an auditorium. He recommended that if a joint venture was agreed upon that the restrictions as to its use now applying to the present Modesto High School auditorium, be modified.

The City Manager stated that he had discussed the possibility of a "joint venture" with school officials and also that he was making an analysis on the feasibility of an auditorium as to financing and uses. The Council agreed that this be done.

Mayor Marks suggested that the City Appraiser proceed with appraising the remaining property in block 121, not now owned by the city, so that the approximate figures would be available for Council information when considering the city hall project.

Councilman R. Adams pointed out that it had been a consideration of the City Hall Council Committee that although the actual expenditure on the city hall itself might not be extensive the first year, but that land acquisition would easily bring up the expenditure to the allocated amount of \$60,000.

REPORT BY MAYOR MARKS ON MEETINGS WITH THE COUNTY ON OPERATION OF AIRPORT

Mayor Marks reported that four members of the Council had met Nov. 23, with four members of the Board of Supervisors, with representatives from the press present, in the City Hall, to determine how the people of this community could secure the airport they need and on what basis it could be financed. The group agreed on the idea that the county invest an amount in the airport to the extent of 50% of the amount invested by the city only. A plan calling for the basis of payment of this amount by the county was discussed as follows:

75% of all future appropriations for airport improvement projects be assumed by the county.

25% be paid by the city until the previous amount expended by the city was equalized.

Thereafter appropriations to be jointly sponsored

The Chairman of the Board of Supervisors is to designate one member of the Board and the Mayor is to appoint one member of the Council to work with city and county staffs, including the County Counsel and City Attorney to draft an agreement for approval by both agencies. This is to provide that the county have an interest in the airport proportional to the amount of money it invests, as it relates to the total both in the past and in the future until each has invested equal amounts, at which time each would have equal share in the airport. Federal funds invested in the airport previously are not to be included in the amount to be matched by the county, he stated.

The City Manager pointed out that the estimated expenditures made by the city would be available for county's verification.

It was agreed by the Council that the unallocated funds could be used, if necessary, to make available the required amount of money for the airport project if it was approved by the federal government.

ADOPTION OF CAPITAL IMPROVEMENT PROGRAM FOR YEAR 1954-1955

Mayor Marks moved, seconded by Councilman Arata, and it was unanimously carried, that the Council adopt the tentative capital improvement work sheet for the fiscal year 1954-55 only.

RESOLUTION OF INTENTION TO VACATE AND ABANDON PUBLIC SERVICE EASEMENT THROUGH BLOCK 2085

Upon the recommendation of the City Attorney, Councilman R. Adams introduced

RESOLUTION NO. 837-S.P.

RESOLUTION OF INTENTION NO. 245

seconded by Councilman M. Adams, declaring the intention to vacate and abandon a public service easement extending in a general easterly-westerly direction, through block 2085 of the Fox Tract, and setting the date of Dec. 15, 1954, at 4:15 P.M., in the Council Chamber, McHenry Library Building, 14th and I Streets, as the time and place for the hearing of protests, directing the publication of the resolution in the Modesto Tribune at least two successive weeks prior to said hearing, directing the posting of the proposed vacation 10 days before date of hearing along the line of said easement, which resolution was regularly adopted by the following vote:

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Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor  
 Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

AUTHORIZE LETTER RE: AIR POLLUTION SENT TO VARIOUS INDIVIDUALS

As previously agreed, Mayor Marks presented for Council consideration, a letter urging prompt action to establish standards which would prevent the future occurrence of smog problems in San Joaquin Valley. Councilman Mellis moved, seconded by Councilman Merrill, and it was unanimously carried, that copies of the letter be sent to Governor Knight, Assemblyman Ralph M. Brown, Senator Hugh P. Donnelly, neighboring cities, and any state or federal agency dealing with this problem.

DISCUSS LEASE WITH THE UNITED STATES GOVERNMENT (NAVAL DIVISION) ON PORTION OF MUNICIPAL AIRPORT

With the approval of the Council, Councilman Mellis introduced representatives from the local Naval Reserve Detachment.

Lt. Comdr. L. Knowles, commanding officer of the local detachment, stated that he had received information today from the Twelfth Naval District that the Bureau of Naval Personnel, Washington D. C., had failed to approve the construction of a proposed building on premises at the Municipal Airport, due to the short term of the lease approved by the city on Sept. 1, 1954 (Ord. 1139-N.S.).

Lt. Comdr. Knowles briefly outlined the benefits the citizens of the community derived from the reserve program conducted at the airport, both from the payroll dispersed in the community and the training program for the youth of draft age. He pointed out that the present facilities were inadequate to properly train the present number of reservists and that the proposed expanded reserve program would be hampered if the facilities were not enlarged. He asked for Council reconsideration on the term of the lease.

The City Attorney reviewed the terms of the lease for the Council's information. The Council assured Lt. Comdr. Knowles that it had not been the intent to hamper the reserve program in any way and that steps would be taken immediately to rectify the lease. The City Manager was asked to check the matter out further.

RENEW LEASE WITH STATE OFFICE OF CIVIL DEFENSE RELATING TO ASSIGNMENT OF FIRE PUMPER TO MODESTO FIRE DEPARTMENT

Upon the recommendation of the City Manager, Councilman Arata introduced

RESOLUTION NO. 54-365

man  
 seconded by Council/ R. Adams, approving renewal of lease with the State of California, Office of Civil Defense, covering the assignment of Office of Civil Defense fire pumper to the City of Modesto Fire Department, for a term of 6 months, beginning Nov. 8, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilman: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor  
 Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

REQUEST COUNTY TO CANCEL 1954-55 CITY TAXES ON CITY OF MODESTO PARKING AUTHORITY PROPERTY IN BLOCK 69 (BEE AND BAVA BUILDINGS)

The City Attorney reported that the City of Modesto Parking Authority had adopted a resolution requesting the Council to request the

Board of Supervisors of Stanislaus County to cancel the city taxes for 1954-55 fiscal year on property purchased by the Authority in Block 69 (Bee and Bava buildings). Councilman Mellis introduced

RESOLUTION NO. 54-366

seconded by Councilman Arata, requesting the Board of Supervisors of Stanislaus County to cancel the 1954-55 city taxes (tax bills Nos. 1436 and 3539) on lots 6,7,8 and 9 of Block 69 on properties now owned by the City of Modesto Parking Authority, and acquired after the lien date, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

The City Attorney reported for the information of the Council, that Traffic Engineer Carmody had raised the point with the Parking Authority, which had turned it down, that there might be some merit in paying these taxes on the theory if it pays the taxes it is not putting the tax load of these facilities on the rest of the people.

AUTHORIZE INSTALLATION OF TRAFFIC SIGNALS AT COLLEGE AND NEEDHAM AVENUES AT TENTH STREET

Upon the recommendation of the City Manager, Councilman Arata moved, seconded by Councilman M. Adams, and it was unanimously carried, that the installation of traffic signals at the intersection of College Avenue, Needham Avenue and Tenth Street, be approved.

DISCUSS OFFER OF KENNETH DURAND TO SELL PROPERTY TO CITY FOR PROPOSED 18 HOLE GOLF COURSE

The City Manager reported that the Council committee and he had held several meetings with Kenneth H. Durand regarding the sale of all or a portion of his land to the city to be used in the development of a proposed 18 hole golf course.

Mr. Durand, he stated, has submitted a specific proposal, worked out in cooperation with the Council committee, a copy of which is on file in the office of the City Clerk, offering to sell his land in parcels. The City Manager outlined the proposal on a diagram for the Council's consideration. The total cost of all the Durand land would be \$92,000, itemized as follows: (acreages are approximate)

- Parcel A-----26.25 acres for-----\$22,000
- Parcel B-----20.    acres for-----30,000, plus approximately  
1 1/2 acres (Parcel C) of walnuts presently owned by the city
- Parcel D-----18 1/2 acres for-----40,000

The City Manager stated that Mr. Durand had pointed out that if the city would buy the land as a whole area at one time that it would be relatively easy to set a price on it as a producing unit, but buying it on the basis of a parcel at a time, it would be necessary for him to protect himself by making some allowance for severance damages if all the property was not purchased.

It was brought out in the discussion that the price named by Mr. Durand was within the range of the price estimated by the City Appraiser and the Council committee.

Copies of the following documents which presented/understanding the current with Horace Dryden relating to the dedication of his property for municipal

golf course purposes which had been distributed to Council members for their study were reviewed; 1) agreement, 2) holding agreement, 3) escrow instructions, 4) grant deed, and 5) lease agreement.

Mayor Marks stated that the agreement with Mr. Dryden was on the basis that he recognize the city could take as long as 5-7 years to develop the course, that it would be done with "due diligence".

The City Manager reported that it had not been possible to clear the legal description of the Dryden property, since Mr. Dryden wished to make some changes and check them personally with the city. He suggested that the Council consider holding up the consideration of Mr. Durand's offer for one week until the description of the Dryden property could be cleared and the above mentioned documents executed by Mr. Dryden.

Councilman M. Adams, moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager and the City Attorney be instructed to proceed with the necessary legal steps to prepare in final form, all legal documents relating to the golf course by the next Council meeting.

Councilman R. Adams pointed out that the total price named by Mr. Durand, was well under the appraised price and also lower than the original asking price. He stated that Mr. Durand was most cooperative with the city.

Mayor Marks commended the committee on its work. Director of Parks and Recreation Lowry stated that he was already preparing preliminary plans for converting the old 9 hole course to a park-recreation area.

#### MAYOR MARKS ASKS COUNCILMAN R. ADAMS TO SUBMIT REPORT ON CITY HALL PRIOR TO JANUARY 1, 1955

Mayor Marks asked Councilman R. Adams, who agreed, to submit his report and recommendation on the City Hall prior to the time he leaves the Council to serve as a member of the Stanislaus County Board of Supervisors, January 1, 1955.

#### FURTHER CONSIDERATION OF OFF-STREET PARKING PROGRAM

The City Attorney distributed copies of his report on the proposed charter amendment relative to the off-street vehicular parking which reflected the changes recommended in the preliminary opinion from bond counsel, together with copies of the proposed charter amendment, to the Council members for their study.

Councilman Mellis stated that the program of the Parking Authority for the past 3 years had not helped the parking situation in Modesto. He felt that the members had demonstrated a lack of judgment in their selection of parking lot sites. He cited various instances, such as the purchase of the Bee and Bava properties, without the proper studies and information, which would cost nearly \$4,000 a stall to develop, which he declared caused him and the citizens to lose confidence in the Authority. He stated that it was his belief that there should be a larger representation on the Authority than the present 5 members, which he recommended should be at least eleven members in order to have a little more discussion. He recommended that the present Authority resign.

Mayor Marks pointed out that in effect the Authority presently had 12 members---the Council and the Authority. He pointed out that with the adoption of the ordinance, if the revenue bond charter amendment was successful at the election, the Authority would be a commission, acting only in an advisory capacity to the Council.

The City Attorney pointed out that the Authority would go out of existence at the time the charter amendment was adopted---if it is adopted, and that it would be up to the Council then in office to make

a determination as to whether there should be a parking commission to deal with parking. He stated that the ordinance which he had prepared at the Council's and Authority's request, would call for the formation of a parking commission to act in an advisory capacity, which could be considered after the election. He pointed out that the Authority could not have purchased the Bee and Bava properties without the approval of the Council in changing its directive to the Authority, that the price of the properties was known to the Council members prior to the purchase. He also pointed out that the purchase of the properties was initiated prior to the appointment of the latest member of the Authority.

Councilman Mellis contended that at the time consideration was given to the purchase of the property that the Authority had talked of using multiple storage arrangements which would have brought the stall cost down considerably. He criticized the Authority for not making the proper studies and investigations.

Mayor Marks stated that he would admit that there had been some confusion in the parking program but that the Council had "contributed to their delinquency". He stated that it was difficult to "divorce parking from lifting up an area by its boot straps". He stated that at the time of the purchase of the Bee and Bava properties that he had felt that the asking price was reasonable, that the Council had agreed with the Authority that this was not the time to build multiple parking but to plan for the future program along these lines.

Councilman Mellis contended that the Authority should have had all the facts before the purchase and he objected to the Authority's placing the Council "on the spot" by asking its opinion on leasing the Bava building to L. W. Zimmerman. He stated that the Authority had refused to consider the purchase of the old Roosevelt School property for parking, when asked by the Council, a few years ago at a price of \$165,000, and that it now contemplates buying a lot close to the school property, which is much smaller in size, for approximately the same price.

The City Attorney pointed out that the Authority did not have available money at the time the purchase of the school property was under consideration, and that the school authorities were not in a position to consider a time payment plan since the money was needed for building construction.

Councilman Mellis contended that the Authority did not lack money but lacked vision, that a way could have been worked out if the Authority had wished to do so.

The City Attorney also pointed out that the Authority did not presently have money to purchase the property under question. That it was merely studying the proposal in line with a future parking program which could be considered by the Council, that all purchases would be held in abeyance pending the charter amendment election. He pointed out that the Authority, prior to the employment of Douglas Carmody, had been handicapped by the lack of well trained personnel. He pointed out that the City of Modesto had accomplished a great deal in its parking program and was better equipped for parking than other cities of much larger size.

PROGRESS REPORT ON DELINQUENT ACCOUNTS

The City Manager presented copies of a progress report on control of delinquent accounts receivable, prepared by the Director of Finance, to the Council members for their information.

REPORT ON TRAINING CLASS CONDUCTED BY DIRECTOR OF PARKS AND RECREATION

The City Manager reported that Lloyd Lowrey, Director of Parks  
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and Recreation was conducting a training class for personnel from his department and the school department and that 28 persons were taking the course. Mr. Lowrey was commended by the Council.

COUNCIL TO INSPECT COUNTY ASSESSOR'S OFFICE

The City Manager reported that arrangements had been made for the Council to inspect the office of the County Assessor, at 2:30 P.M., Wednesday, Dec. 1.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Merrill, and it was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 9:15 P.M.

ATTEST:

  
REX E. GAILFUS, CITY CLERK

## Council Meeting

December 1, 1954

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 building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Arata, Mellis, Merrill, Annan  
and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. F. T. Zelmer of the Free Methodist Church.

LETTER FROM MODESTO JUNIOR CHAMBER OF COMMERCE RE: LOCATION OF THE WORLD SECRETARIAT OF THE J.C.I.

A letter from the Modesto Junior Chamber of Commerce, enclosing copies of the kit and brochures which had been presented to the Junior Chamber of Commerce International convention in Mexico City in October, to establish its bid for the location of the World Secretariat in Modesto, was read and ordered filed.

LETTER FROM CHAMBER OF COMMERCE RE: LOCATION OF HIGHWAY ROUTE 109 AND HIGHWAY ROUTE 99 THROUGH THE CITY OF MODESTO

A letter received from the Chamber of Commerce, together with a copy of the resolution adopted by the Chamber regarding the relocation of State Route 109 and U.S. 99 Highway through Modesto, was read.

Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried, that the letter and resolution be referred to the Modesto City Planning Commission for its report and recommendation.

DISCUSS OFFER FROM NATIONAL MUNICIPAL LEAGUE FOR MODESTO TO PARTICIPATE IN A NATIONAL RADIO PROGRAM

City Manager Miller read a letter received by L.R. Robinson, Jr., chairman of the Forward Modesto Committee, from the National Municipal League, advising that the National Broadcasting Company had offered to revive the "Citizens at Work" radio series which the League had sponsored last spring and donate the radio time. The 22 finalist in the competition for the 1954 award in the All America Cities Award were eligible and invited to participate. The value of the program to a community, both in national recognition and publicity, and the methods used by other cities to raise the \$1500 fee required for script writing and other necessary costs, were outlined by the League.

The City Manager stated that the League had records of the previous 30 minute broadcasts from the various cities which could be obtained, if the Council wished, and which could be used by local schools and organizations throughout the community. He stated that he considered the program would be worth the \$1500 which it would cost the community.

Dr. Robert Moon, who was present, stated that he considered the project worth while and suggested that various service clubs and organizations be contacted to raise the necessary funds. He pointed out that many of these groups have budgeted funds for such purposes, as promotion of the city and civic affairs, and that this project would be

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ideal. He expressed confidence that a program could be worked out and that a large share of the \$1500 raised through these organization in a limited period.

In the discussion on the project, it was suggested, to which Sid Loshier, President of the Chamber of Commerce, and Dr. Moon, member of the Chamber's Industrial committee, agreed that the Industrial committee spear head the program and make arrangements to contact the various organizations in the community to raise the funds needed.

A discussion on the question of the city's participation in financing the program was held. Councilman Annan recommended that the Council should not go on record as agreeing to supply the balance of the fund which the committee was unable to collect from public subscriptions, but that the city could be depended upon for some financial support.

City Attorney Grimes pointed out that since the formation of the Modesto Inter-Service Club Council it would be relatively easy to contact the organizations. He reported that this organization was meeting Dec. 2 and that presidents and civic affairs committee chairmen of all the organizations belonging to the Council would be present.

The City Manager pointed out that citizen participation and enthusiasm would mean a great deal to the community in this project and suggested that the Chamber of Commerce Civic Affairs Committee could cooperate with the Industrial Committee in the collection of funds and that the city would work with these committees for the next 10 days or two weeks to complete the project. The Council expressed approval of the project and the suggestions offered.

#### STANISLAUS DRY CLEANERS' ASSOCIATION REQUEST CHANGE IN LICENSE FEES FOR OUTSIDE TRUCKS OPERATING IN THE CITY

With the consent of the Council, Councilman R. Adams introduced representatives of the Stanislaus Dry Cleaners' Association. A letter was filed by the Association with the Council asking that an investigation be made into the present inequities existing between the city license fees and taxes paid by the laundries, dry cleaners and linen suppliers operating within the city, as compared to those charged businesses located outside the city which serviced the city with trucks, with the idea of raising the fees charged under section 6-1.228 of the Municipal Code.

The representatives pointed out that the City of Turlock charged a license fee of \$100 per year for businesses sending trucks into the city, which regulation had been patterned after a similar ordinance in Santa Rosa. The following points were brought out in the general discussion on the proposal:

Corrective legislation should be considered but it should not be limited to laundries, dry cleaners, linen suppliers only, since there was a possibility of it being ruled as being discriminatory by the courts;

Whether this request be considered along with a number of other items previously raised relating to the entire business license ordinance during the past 2-3 years;

Whether this request should be given priority over a number of other urgent pending matters of great importance;

That the complete reorganization of the business license ordinance would be a "long range project" and the truck license fees should have a direct bearing on other license fees.

Councilman Annan moved, seconded by Councilman R. Adams, and it was unanimously carried, that the City Manager and City Attorney proceed on the investigation of this request, over all other matters, and bring a

a report and recommendation to the Council at an early date.

ANNOUNCEMENT OF SPECIAL CITY-COUNTY COMMITTEE MEETING IN OAKDALE

The City Manager reminded the Council of the City-County committee meeting to be held in Oakdale, Dec. 7, to discuss the airport matter.

APPROVE SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS ON FIRE PUMPER

Specifications for the purchase of a triple combination fire truck were presented for Council consideration by the City Manager. Councilman Mellis introduced

RESOLUTION NO. 54-367

seconded by Councilman Arata, approving the specifications for the purchase of a triple combination fire truck and authorizing the call for bids, said bids to be opened at 2:00 P.M., Dec. 30, 1954, in the office of the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR CAPITAL OUTLAY PURPOSES DURING THE 1954-55 FISCAL YEAR

Upon the recommendation of the City Manager, based on previous Council discussions, Councilman Merrill moved the adoption and passage to print of

ORDINANCE NO. 7-C.S.

entitled: "AN ORDINANCE APPROPRIATING ADDITIONAL REVENUES FOR CAPITAL OUTLAY PURPOSES DURING THE 1954-55 FISCAL YEAR", which motion being duly seconded by Councilman Annan, was upon roll call carried by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

DISCUSS INSTALLATION OF "SAFE DRIVING DAY" SLOGANS ON CITY'S LIGHT POLES

Robert E. Wooldridge, local chairman of the national "Safe Driving Day", which is to be observed Dec. 15, was present to discuss the possibility of installing slogans on the city's light poles in the downtown district. The City Attorney advised that if the installation was made by the city that no Council action would be necessary on this request. It was generally agreed that the slogans would be installed by the city in cooperation with the committee.

FURTHER CONSIDERATION OF OFF-STREET PARKING PROGRAM

A general discussion was held on the report prepared by the City Attorney which reflected the changes recommended by Orrick, Dahlquist, Herrington & Sutcliffe, bond counsel, in the preliminary opinion on the proposed charter amendment relative to off-street vehicular parking, copies of which report, had been previously distributed to all Councilmen for their study.

The City Attorney asked that the following clerical error be corrected:

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"On page 6 of the proposed amendment to the Charter, subsection (m) of section 1808, section (2) should read, "net revenues from on street parking meters", and section (3) should read, "(all or any part of the gross) revenues of any existing off-street parking facilities all as provided for in the resolution of issue."

The City Attorney stated that the bond counsel had recommended that the words "revenue producing", in section 1801 (c) be deleted. This change, he stated, appeared to be justified. Basically this would mean that until the bonds were paid for, no free parking lots should be provided which might compete with the other lots and which might jeopardize the security of the bonds. Some discussion was held on the definition of the word "compete" and the possibility of including a provision in the resolution of issue relating to free parking lots.

Bond Counsel had recommended that the word "net" in section 1801 (d) be changed to "all or any portion of the". The City Attorney stated that the reason for this suggested change had been outlined in his report and further stated that he had been assured by the bond counsel that the administrative expenses were considered as part of the normal charges and paid for out of the gross revenue which had been pledged to retire the bonds.

A long discussion was held on the terms, "gross" and "net" income and whether the expense for replacement of meters, repair of meters and other maintenance costs on off-street lots, could be considered as legitimate authorized expenses and paid for out of the gross income from the off-street parking lots. Whether the present lots were to be pledged with the lots to be acquired for the payment of the bonds was discussed.

Mr. Carmody pointed out, for the clarification of the Council, that in pledging the gross income from the off-street parking lots, it would be presumed that there would be more than enough income to pay for the bonds and the difference could be used for the maintenance of the lots and other incidental expenses.

The City Attorney pointed out that the bond people would be very short sighted if they did not allow for the maintenance of the lots and he pointed out that they were issued on a 2/1 ratio which would make them financially sound.

A general discussion was held on charter amendments adopted by various other cities--San Jose, Berkeley, Sacramento and Fresno---as related to the "in lieu tax" provision and to the percentages of meter money to be used in the program as compared to the one proposed by Modesto, which is to be 75% of the on-street revenue and 100% of the off-street lots.

Section 1801 (e). The City Attorney stated that bond counsel had recommended that the provision for reimbursement for property taxes contained in the last sentence of this subsection be deleted in its entirety for the same reasons outlined under section 1801 (d)

The City Attorney pointed out that it would be a Council decision on whether the policy should be adopted, as the City of Berkeley charter amendment had provided, of requiring reimbursement for the city taxes on the lots.

The City Manager pointed out that if the charter amendment provided for city tax reimbursement, that it would be a good selling point for the program to the public.

After a general discussion it was agreed that since the amount of taxes which would be reimbursed, was a minor sum, that the amendment should remain as recommended by the bond counsel (delete reimbursement provisions)

Section 1804. The City Attorney stated that the bond counsel had recommended the the words "gross revenues from" be inserted in the title of this section so that it would be consistent with the remaining provisions of the charter amendment if sections 1801 (d) and (e) were approved. Since these were approved, he stated, this change would be automatic.

Suggested change of bond counsel on section 1808 (m) was agreed to by the Council.

Suggested change of bond counsel on section 1812 (l) was agreed to by the Council.

Suggested change of bond counsel on section 1812 (m) was agreed to by the Council.

A change in the wording in Section 1815 which would make it consistent with subsection (m) of Section 1812 was agreed to after considerable discussion.

The City Attorney outlined the necessary steps for the Council to take on a particular program, which would require before a resolution of issue was adopted to sell the bonds, that 1) engineering data be obtained, 2) proposed lot location be decided, 3) financial consultant's study and report be made, and 4) arrangements be approved with bond counsel for preparation of all necessary documents. He pointed out the inadvisability of doing these things before the election since it would be a waste of taxpayers money if the election was unsuccessful.

A general discussion was held on the disposition of the funds remaining after the bonds were retired each year. The City Attorney pointed out that the disposition could be determined at the time the resolution of issue was adopted.

The City Attorney reminded the Council that at the joint meeting attended by the Authority and Council the status of the Authority, if the bond election was successful, had been discussed and that it had been generally agreed that if the Authority would favor the charter amendment that the Council would approve the creation of a Parking Commission to act in an advisory capacity to the Council to carry out the actual administration of the parking program. He pointed out that the two matters---charter amendment and creation of a Parking Commission---were related and that the approval of the charter amendment would imply that there would be a Parking Commission established.

It was agreed by the Council that citizen participation in an advisory capacity was desirable but that it would be a decision to be made by the Council in office after the election.

At this time Councilman Mellis filed the following statement with the City Clerk and asked that it be made a part of the record:

"STATEMENT OF COUNCILMAN, DAN MELLIS, IN OPPOSITION TO PROPOSED AMENDMENT TO CITY CHARTER RELATIVE TO OFF-STREET VEHICULAR PARKING"

Members of the City Council, I have given considerable thought to the proposed charter amendment. I have re-read this very voluminous and confusing proposal to amend the City Charter. I have searched my conscience and tried to determine that it would be a benefit for the community but in all honesty, I cannot say in truth that this proposed amendment would benefit our community. I am, therefore, opposed to the proposed amendment and voice my opposition for the following reasons:

1. The charter amendment puts the city in the real estate business. The proposed amendment permits the purchase of property by the city government without check by the voters. It permits the City Council to purchase any amount of property, regardless of where located within the city without any say or check by the voters.

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2. The proposed amendment gives the present City Council and future City Councils a blank check to mortgage future parking monies for the benefit of a particular section. Under the terms of the proposed amendment, all or any portion of the on and off-street parking monies can be pledged to pay for a particular project. There is a danger that all of the monies derived from parking revenues could be utilized for the benefit of one or more particular sections of the community without any benefit to the other sections.

3. There is no check on the City Council by the voters with respect to the price to be paid or the number of projects required by the community.

4. The proposed amendment subjects the City Council to the unwarranted pressure of minority groups. We must appreciate the fact that many pressures could and are brought to bear by minority groups. Our experience with the parking authority, particularly in recent weeks, indicates the severity of the pressure and the tactics that can be utilized by selfish individuals who do not have the best interests of the community in mind. The adoption of this amendment increases many fold the risk incident to the activity of pressure groups and will leave the City Council, as well as the individual members of the City Council, open to direct abuse by such groups.

I am of the opinion that each sector which requires additional parking facilities should be made to contribute a substantial portion to the purchase of such facilities inasmuch as that particular sector directly benefits from the increase parking facilities. I do not subscribe to the giving of blanket authority to the City Council for the purchase of any property to be decided upon at any time by the then existing City Council without check by the voters. The proposed amendment, in my opinion, gives entirely too much authority to the City Council in a matter which is of vital importance to the entire community and as indicated leaves the council open to abuse by pressure groups.

For the reasons mentioned above, I am opposed to the proposed charter amendment and it is my intention to vote against the proposal and to recommend to the voters of the City of Modesto that they oppose this proposed amendment."

Mayor Marks pointed out that it was the duty of each Councilman to fight for the things he thought were right and that in this case the people would be given an opportunity to decide at the election whether or not they wished the program to be carried out.

Councilman M. Adams recommended that Council action on the proposed charter amendment be deferred until the points raised by Councilman Mellis could be given more consideration.

The City Attorney pointed out that the only Council action which would be necessary at this time would be the approval of the text of the amendment so that it could be referred back to the bond counsel for further review and approval in accordance with the agreement for their services.

Mayor Marks requested the Clerk to send a copy of his statement on the parking program which had been made at the Council meeting of September 15 to Councilman M. Adams for his study.

Councilman Arata moved, seconded by Councilman Merrill, that the amending text of the proposed amendment to the Charter of the City of Modesto relative to off-street vehicular parking as set forth in the report submitted to the Council by the City Attorney dated November 19, with the one additional amendment to Section 1808 (m), be approved. Mayor Marks declared the motion carried.

AUTHORIZE RELEASE OF SUBDIVISION BOND TO TSCHANTZ & VAN HORN

Upon the recommendation of the City Manager, Councilman M. Adams introduced

## RESOLUTION NO. 54-368

seconded by Councilman R. Adams, releasing the subdivision bond filed by Tschantz & Van Horn to guarantee the completion of the improvements in the Tschantz-Van Horn Addition, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

LETTER FROM CHAIRMAN OF CONVENTION COMMITTEE OF CHAMBER OF COMMERCE

A letter received from the Chairman of the Convention Committee of the Chamber of Commerce, stating that "in view of the findings of the city staff, the committee wished to withdraw its request for courtesy parking privileges to convention delegates", was read and ordered filed.

ESTABLISH STOP SIGNS AT INTERSECTION OF LAUREL AND JEFFERSON STREETS

Upon the recommendation of Traffic Engineer Carmody the following resolutions were presented for Council consideration.

Councilman Merrill introduced

## RESOLUTION NO. 54-369

seconded by Councilman Arata, establishing stop signs on the northeast and southwest corners of Laurel Avenue and Jefferson Street for traffic entering Jefferson Street, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ESTABLISH FREIGHT LOADING ZONE ON NINTH STREET BETWEEN F AND G STREETS

Councilman R. Adams introduced

## RESOLUTION NO. 54-370

seconded by Councilman Mellis, establishing a freight loading zone on the east side of Ninth Street, between F and G Streets, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

APPROVE PREPARATION OF PLANS AND SPECIFICATIONS FOR INSTALLATION OF TRAFFIC SIGNALS AT INTERSECTION OF 14th & H STREETS

Upon the request of the City Manager, the Council authorized the preparation of plans and specifications for the installation of traffic signals at the intersection of 14th and H Streets.

APPROVE AGREEMENT WITH DALTON P. ELLIS, LEVOY WRIGHT AND LANCE E. ELLIS  
RELATIVE TO IMPROVEMENT OF BISPO DRIVE

With The consent of the Council, the City Manager presented an agreement for Council consideration between the city and Dalton P. Ellis, Levoy Wright and Lance E. Ellis relative to improvement of Bispo Drive from Chenery Drive westward approximately 100 feet to the easterly boundary of the Caroland Manor Tract. Councilman Arata introduced

RESOLUTION NO. 54-371

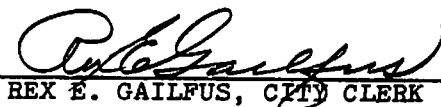
seconded by Councilman M. Adams, approving agreement with Dalton P. Ellis, Levoy Wright and Lance E. Ellis relative to improvement of Bispo Drive and authorizing its execution by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

ADJOURNMENT

Councilman Merrill moved, seconded by Councilman M. Adams, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 6:30 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 Building, 14th and I Streets.

The City Clerk called the roll and there were

Present: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Absent: Councilmen: None

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

Invocation was given by Rev. J. H. Becker, pastor of the Geneva Presbyterian Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meetings of November 17 and 24, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### LETTER FROM STATE DIVISION OF HIGHWAYS REGARDING LOCATION OF HIGHWAY IN CITY OF MODESTO (Route 4)

A letter from the State Department of Public Works, Division of Highways, District X, Stockton, regarding the route adopted by the California Highway Commission on November 17, for a portion of State Highway in Stanislaus County between 0.4 of a mile south of Hatch Road and Shoemaker Avenue, Road X-Sta-4-B, Mod, was read. A certified copy of the resolution adopted by the Commission together with a map was also enclosed. The Council ordered the documents filed.

#### APPROVE SPECIFICATIONS AND AUTHORIZE CALLING FOR BIDS FOR AUTOMOTIVE EQUIPMENT

Specifications for the purchase of automotive equipment consisting of 2 one-half ton pickup cars, 1, three-quarter ton dump truck, 2 standard business coupes, four, four door sedans, 1, 2 ton dump truck were presented by City Manager Miller for Council consideration. He stated that the specifications were arranged to permit the same type of bidding which had been successfully used for the past two years, and which had proved a savings to the city. Councilman M. Adams introduced

#### RESOLUTION NO. 54-372

seconded by Councilman Annan, approving the specifications for automotive equipment and authorizing the calling for bids, said bids to be opened at 2:00 P.M. December 27, in the office of the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: None

#### ORDINANCE APPROVING LEASE OF PORTION OF AIRPORT PROPERTY TO THE UNITED STATES OF AMERICA (NAVAL DIVISION)

Terms of a lease for the rental of a portion of the airport property to the United States of America (Naval Division), which is to supersede the lease approved by Ord. 1139-N.S., were outlined by City Attorney Grimes, who stated that the terms had been approved by the Navy. Councilman Arata moved the introduction and passage to print of

#### ORDINANCE NO. 12-C.S.

entitled: "AN ORDINANCE APPROVING THE LEASE OF CERTAIN AIRPORT PROPERTY TO THE UNITED STATES OF AMERICA AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH", which motion was seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: None

ORDINANCE AMENDING BUSINESS LICENSE ORDINANCE (WHOLESALE AND TRUCKS)

As requested by the Council, the City Manager filed a report on trucks licensed by the City which have no fixed place of business within the city.

He reported the following business classifications on licensed trucks having no fixed place of business in the City:

Class of Business	Number of Businesses	Number of Trucks
Wholesale Distributors	52	69
Milk Haulers	26	27
Transportation services	15	24
Retail delivery	19	27
Service and repairs	3	3
Cleaners, Laundries, etc.	7	7

He pointed out that the license fee for all these types was the same--\$5.00 per quarter, per truck for the first truck and \$2.50 per quarter for each additional truck. The license fee, for an established place of business in the city was \$10.00 per year, plus two mills on gross receipts, less credit for City personal property taxes paid, except for the classifications Wholesale distributors, which was \$10.00 per year. It was recommended in the report that there be no increase in the truck license fees for wholesale distributors, milk haulers or transportation services.

The average annual license fees paid to the city by cleaners and laundries in the city was given in the report as follows:

Cleaners	\$37.50 average per year
Home and Hand Laundries	10.00 average per year
Self-service Laundries	13.00 average per year
General Laundries	185.00 average per year

The report concluded as follows:

"Based upon the principle that the general business license ordinance requires higher license fees for businesses other than wholesale, and on the principle that outside firms doing business in the city should pay higher license fees than those within the city, who are paying other city taxes, we do recommend an increase in truck license fees for retail and service businesses including cleaners and laundries as provided in the attached proposed amendment to the Code."

The City Attorney outlined the proposed amendment to the Code which would establish the license fee, effective January 1, 1955, as follows:

Wholesalers--\$5.00 per quarter for the first vehicle and \$2.50 per quarter, for all other vehicles

Transportation Service same as wholesalers

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All Others \$15.00 per quarter for the first vehicle  
and \$7.50 per quarter for all other vehicles

The City Attorney pointed out that basing the license fee graduated on the number of vehicles, raised the legal question of a possible valid discrimination, but that since the city had not experienced any difficulty with the present provisions that the risk could be taken. He pointed out the danger of establishing the license fee too high so that it would create a "barrier" around the city.

A general discussion was held on the basis to be used in establishing the increased rate for outside operators. The City Attorney pointed out that the courts had never ruled that a city could take into consideration the fact in establishing fees, that the public facilities were paid for by the tax payers in a city so the fee charged outside city operators could be higher. He also pointed out the fact that a flat fee would penalize the one truck operator.

The City Manager pointed out that the proposed fee for "others" truck was on a fair basis, three to one, and should not present any legal problems. He stated that a similar basis had been used in establishing outside charges for sewers.

Roy Byllings, operating a wholesale ice cream business with a fixed place of business in the city, contended that the license fee for a wholesale operator in the city was too low as compared to other cities in which he operated. He listed the various fees he paid in other cities which ranged from \$10.00 to \$64.00 a year. He recommended that the city's fee be increased to at least \$20.00 or \$30.00 per year.

The following points were brought out in the general discussion:

1. That the present ratio for establishing fees was approximately two to one for wholesalers and approximately three to one for retailers;
2. That all license fees should have a direct relationship to other fees;
3. That operating expenses had materially increased in the past few years, and other cities and the state had increased its fees and taxes but Modesto's fee remained the same, and should be increased.

The City Attorney pointed out that the ordinance presented for Council consideration did not relate to fees for concerns operating with a fixed place of business in the city.

Mayor Marks suggested that the outside wholesale license fee be established at \$50.00 per year for one truck and \$75.00 per year for more than one truck. He also suggested that other cities in the county and state be contacted with regard to license fees charged so that a study could be made. He also suggested that in fairness to other operators in the city that before any change be considered for the inside wholesale operator that they be notified that the city was contemplating making a change to bring the fees up to the same basis as other cities and not just to bring additional revenue to the city.

Councilman R. Adams recommended that the Council give serious consideration to overhauling the entire method of establishing business license fees and taxing. He pointed out that the present mill license, with credit for personal property taxes paid, was cumbersome.

Councilman Mellis concurred with this suggestion and recommended that a study be made of the entire retail and wholesale license fees so that an entirely new system could be established.

The City Attorney pointed out that this study would be a large pro-

ject which would require a long time. He cited the billboard ordinance as an example. He asked the Council whether this should receive the highest priority of the pending matters before the Council. Mayor Marks suggested that the Council members be furnished with a list of the pending matters so that a priority list could be established.

Mayor Marks asked for an expression from Mr. J. J. McDevitt, outside operator of a cleaning establishment, on the proposed ordinance. He stated that the way the ordinance was written was satisfactory to him since it was not discriminatory against the cleaners, and that he was willing to pay his share of taxes.

A general discussion was held by the Council and representatives from the Stanislaus Dry Cleaner's Association on the ratio (three to one) in establishing the fees for inside and outside operators of cleaning establishments. Mr. J. K. Caplan operating the Royal Cleaners protested that the average fee paid per year by the cleaners of \$37.50 would be a greater ratio than three to one compared to the proposed fee for outside cleaners. It was generally agreed that Director of Finance Lawrence should contact various cities in the county and adjacent valley counties to determine the fees both for wholesale and retail; and whether the various cities also had a mill license type of tax on inside retail concerns; and that the wholesale operators be notified that the increase of the license fee was being considered.

Mr. S. Simidian, operator of the Modesto Steam Laundry recommended an increase in the fee for those operating in the city, without a fixed place of business.

Councilman Mellis recommended that the ordinance presented by the Attorney with the changes discussed be adopted at this meeting so that it could become effective January 1 and the city would not lose the income for the first quarter of the year and that a study be made of the whole license fee system so that a new system could be worked out. The City Manager pointed out that if the ordinance was introduced, further information could be obtained before final adoption.

Mayor Marks polled the Council on whether the ordinance should be adopted at this time with the following fees for those doing business in the city by truck, without a fixed place of business in the city:

Wholesalers--\$12.50 per quarter for the first vehicle  
and the sum of \$6.25 per quarter for all  
other vehicles

Transportation Service--\$5.00 per quarter for the first  
vehicle and the sum of \$2.50 per quarter for  
all other vehicles

Others--\$20.00 per quarter for the first vehicle and the  
sum of \$10.00 per quarter for all other vehicles

It was generally agreed by the members that the ordinance be adopted at this time and additional information be obtained by the Director of Finance before the next Council meeting. Councilman Merrill moved the adoption and passage to print of

ORDINANCE NO. 8-C.S.

entitled: "AN ORDINANCE AMENDING SECTION 6-1.228 OF ARTICLE 2 OF CHAPTER 1 OF TITLE VI OF THE MODESTO MUNICIPAL CODE RELATING TO THE LICENSING OF BUSINESSES, PROFESSIONS AND TRADES", which motion was duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and  
Mayor Marks 12-8-54 Page 4

NOES: Councilmen: None  
 ABSENT: Councilmen: None

ACCEPT DONATION FROM MAVIS DELL SCHOOL OF DANCING STUDIO FOR YOUTH CENTER FURNISHING FUND

Mavis Dell, operating the Mavis Dell School of Dancing Studio, appeared before the Council to report on the benefit dance which her school had held at the Maddux Youth Center, November 19. She reported receipt of \$414.00 which was to be turned over to the Center Furnishing Fund.

Mayor Marks commended Miss Dell on behalf of the Council for her public spirit.

Councilman M. Adams introduced

RESOLUTION NO. 54-373

seconded by Councilman R. Adams, accepting the donation of \$414.00 to the Maddux Youth Center Furnishing Fund from the Mavis Dell School of Dancing, and authorizing its expenditure for furnishing purposes, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: None

DISCUSSION ON BUSINESS LICENSE FEES FOR CONTRACTORS

The City Manager reported that local contractors had discussed at various times, problems relating to the business license fees. Many of the contractors, he stated, have large contracts outside the city, some far removed from Modesto. They would like for the Council to consider 1) the establishment of some point beyond Modesto where the mill license fee could be waived, 2) equity in license fees for contractors between the cities in the county, 3) where similar fees are charged by other cities, that the City of Modesto waive the license fee required on that special contract and 4) that electricians be licensed in the same manner as plumbers.

It was agreed by the Council that these matters be considered in the over-all study to be made of the license ordinance.

ORDINANCE REGULATING THE PRESENCE OF ANIMALS IN PUBLIC PARKS AND RECREATION AREAS

The City Attorney presented for Council consideration an ordinance regulating the presence of animals in public parks and recreation areas, as requested by the Director of Parks and Recreation.

Director of Parks and Recreation Lowrey outlined the difficulties under which the city was presently operating in controlling horses in Legion Park. Councilman Merrill moved the introduction and passage to print of

ORDINANCE NO. 11-C.S.

entitled: "AN ORDINANCE ADDING CHAPTER 4 TO TITLE XII OF THE MODESTO MUNICIPAL CODE, REGULATING THE USE OF PARK AND RECREATION AREAS AND FACILITIES", which motion being duly seconded by Councilman Mellis, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill, and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: None

LETTER FROM MR. & MRS. WALTER T. GREGG, RE: BALL PARK

With the consent of the Council, Mayor Marks read a letter he had received from Mr. & Mrs. Walter T. Gregg, Rt. 5 Box 666, asking that an allocation for a ball park be considered, as well as the golf course.

Mayor Marks asked the City Manager to acknowledge receipt of the letter and to outline the plans of the city relating to the reconstruction of the field.

Councilmen Arata and Annan reported on their recent trip to San Jose to inspect the new ball park in that city.

The City Manager reported on the progress in the settlement with the insurance company on the loss by fire at the park, which he stated would be completed as soon as a matter of depreciation was agreed upon. He stated that the city was proceeding on the basis that there would be ball games at the park this season.

EXECUTION OF DOCUMENTS ON 18 HOLE GOLF COURSE APPROVED

The City Attorney outlined the provisions of the agreement, holding agreement and escrow instructions relating to the gift of approximately 60 acres of land by Horace W. Dryden and Dorothy Dryden to the city to be used for an 18 hole golf course. He stated that Mr. Dryden had requested that these documents be executed as of January 3, 1955. The Stanislaus Abstract and Escrow Company has offered its services free on escrow charges since this was a gift for a public project, he stated. The taxes are to be prorated, he stated, with the city assuming the second payment of 1954-55 taxes and all the taxes thereafter.

Mayor Marks pointed out that the provision in the agreement which called for the development of the property as a golf course with due diligence might mean at least 5-7 years.

Councilman M. Adams moved the introduction and passage to print of

## ORDINANCE NO. 9-C.S.

entitled: "AN ORDINANCE RELATING TO THE ACQUISITION, CONSTRUCTION, MAINTENANCE AND OPERATION OF AN EIGHTEEN HOLE MUNICIPAL GOLF COURSE BY THE CITY OF MODESTO", which motion being duly seconded by Mayor Marks, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

NOES: Councilmen: None

ABSENT: Councilmen: None

AUTHORIZE PURCHASE OF PROPERTY FROM KENNETH H. DURAND AND GLADYS S. DURAND FOR USE BY CITY FOR MUNICIPAL GOLF COURSE PURPOSES

The City Manager outlined minor changes which had been made in the offer of Kenneth H. Durand and Gladys S. Durand to sell property to the city for golf course uses. The acreage, he stated, was not materially changed but certain changes were made so that the city would have easier access to the property. Councilman Merrill moved the introduction and passage to print of

## ORDINANCE NO. 10-C.S.

entitled: "AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY FROM KENNETH H. DURAND AND GLADYS S. DURAND FOR USE BY THE CITY OF MODESTO FOR MUNICIPAL GOLF COURSE PURPOSES", which motion being duly seconded by Councilman R. Adams, was upon roll call carried and ordered printed and published by the following vote:

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AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: None

AUTHORIZE TEMPORARY TRANSFER FROM GENERAL FUND TO SPECIAL FUND FOR CAPITAL OUTLAYS AND TO PROVIDE FOR ITS REIMBURSEMENT (\$22,000)

The City Manager presented for Council consideration a resolution authorizing a temporary transfer of \$22,000 from the general fund to the Special Fund for Capital Outlays to be used in the purchase of the Durand property. Councilman Arata introduced

RESOLUTION NO. 54-374

seconded by Councilman Annan, authorizing the Director of Finance to make a temporary transfer of \$22,000 from the General Fund to the Special Fund for Capital Outlays, and authorizing him to reimburse the General Fund for said transfer from the first moneys received in the Special Fund for Capital Outlays after January 1, 1955, which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, R. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks  
 NOES: Councilmen: None  
 ABSENT: Councilmen: None

DISCUSSION OF "NO PARKING" ZONES AT INTERSECTIONS IN CITY

The City Manager stated that it had been brought to the attention of the city that parked vehicles on the N.W. side of L Street, just N.E. of 12th Street, limited vision and it had been requested that two parking spaces be eliminated at this point.

He pointed out that records indicated that only 3 property damage accidents had occurred at this intersection in the past 21 months. The dimensions of the streets at this intersection are the same as all other streets in the central core of the city and the same general conditions exist at most of the intersections.

The City Attorney pointed out that the parkers at this particular intersection were all day parkers with no turn over of parkers.

The City Manager pointed out that this problem was not limited to this corner only, but to many others and it should be a policy decision of the Council as to the solution.

A general discussion was held by the Council and Douglas Carmody, Traffic Engineer, on the method of determining critical intersections and the number of accident which would determine a certain intersection as being critical and warrant special consideration and action.

The danger of establishing a precedent for other intersections if a "no parking zone" was created at this special intersection and the ultimate loss of much needed parking spaces was generally discussed.

Mr. Fred Curtis recommended that consideration be given to regulate the parking of trucks at isolated stores in the residential district.

The City Manager pointed out that the Council would be faced with this same problem over and over again and that even if a person had been killed recently at this intersection, that in itself would not justify action which could not be justified on the basis of all the facts relating to that particular intersection. If the Council decided not to take any action tonight, he continued, and a person would be involved in a serious accident tomorrow

at this same intersection it would not mean that the Council had been in error on its decision. If the Council proceeds on the basis that each decision is to be made on traffic matters, on all the facts and on standard requirements based on continuing experience, it will be on solid ground, he stated. He pointed out that the administrative staff would continue to present all facts and data and diagrams on these problems for the Council decision.

The City Manager stated that the most recent purchase of the Parking Authority will provide parking spaces at an average of \$3,000 per stall. Even at \$2,000 per space, if only two spaces were removed at each such intersection, approximately \$4,000 could be spent on traffic control devices to make the intersection safe and leave the spaces intact. The City can signalize each such intersection in Modesto for about \$2,000 and make them far safer than merely eliminating stalls at each intersection to increase the sight distance.

The Council agreed that on the basis of the facts presented that no Council action was necessary on the request to remove two parking spaces on the northwest side of L Street, just northeast of 12th Street.

#### REPORT ON AUDIT OF SALES TAX AND BUSINESS LICENSE TAX

A report submitted by Director of Finance Lawrence on the results of the first year of auditing the sales tax returns and mill license tax returns of Modesto business firms, was received and ordered filed.

#### REPORT ON OILED STREETS REWORKED DURING THE 1954 SEASON

A report on oiled streets reworked during the 1954 season submitted by Director of Public Works Ray, was received and ordered filed.

#### CITY MANAGER REPORTS ON PUBLIC WORKS PROJECTS UNDER CONSIDERATION

The City Manager reported that a report would be submitted very shortly on 1) test at Hayward's; 2) a specific proposal for the prompt construction of certain units at the sewer plant. Arrangements are being made with Harry Jenks, Sanitary Engineer, to be present at a Council meeting to discuss these plans on the sewer plant, he stated, which has tentatively been planned for December 22. He stated that a report would be sent out ahead of time to each Councilmen on the proposed plan for the plant.

#### CITY MANAGER REPORT ON STATE EMPLOYEE'S RETIREMENT SYSTEM VALUATION

The City Manager reported that the State Employees' Retirement System was prepared at this time for about \$200. to evaluate the city's retirement contract to determine what effect there would be on the employees' and employers' contributions for the contract with the Retirement System to be amended to include the changes in the law up to June 30, 1954. The proposal had been cleared with the Personnel Board and that if there was no objection the survey would be requested.

He reminded the Council that requests had already been filed by the Police and Fire Departments to amend the contract to provide for optional retirement at age 50 in accordance with the amendment to the law passed by the 1953 Legislature.

When the report has been received, he stated, it will be submitted to the Council for consideration as to possible revision of the present contract.

#### REPORT ON VISIT BY CITY OFFICIALS TO COUNTY ASSESSOR'S OFFICE TO REVIEW ASSESSMENT PROCEDURE

The City Manager reported on the Council's visit to the County

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Assessor's office to inspect the assessing procedure and the general effect of the city's new program. The problem presented by Councilman Mellis regarding the method of assessing residential property zoned by business was discussed also with the County Assessor.

The questions raised by the Council on the assessment procedure and placed on the pending list were considered cleared.

RESIGNATION OF COUNCILMAN ROBERT W. ADAMS ACCEPTED

With the consent of the Council, Councilman Robert W. Adams filed his letter of resignation as a member of the Council, effective December 9, 1954.

"Modesto City Council  
Modesto, California

Honorable Mayor and City Council

It is with deep personal feeling that I am submitting to the City Council my resignation as a member of this Council. During the last forty-four months as a member of the Modesto City Council, I have tried to the best of my ability to serve with fairness and understanding. I need not say that to have served the people of the City of Modesto, during this period of tremendous growth and development, has been a very deep personal satisfaction.

The problems of our future development are many but we can look to the future with a feeling that our accomplishments and developments will be for the welfare of our entire county.

Shortly I will take over the duties of Supervisor of the 4th District. In that Capacity it will be my duty to serve the people of the County as a whole. To this end I shall devote my full energy and ability. I'm sure I can expect from the Modesto City Council, as well as all of the other Cities of the County, loyal support and cooperation for a bigger and better Stanislaus County.

To each one of you I wish to thank you most sincerely for your cooperation and understanding you have extended me during our association as members of this Council. I therefore now, resign from this Council, effective December 9th 1954."

Respectfully,

ROBERT W. ADAMS (Signed)

Mayor Marks expressed regret at the resignation of Councilman R. Adams and stated that it had been a personal privilege to serve with him for the past 3½ years.

Various members of the Council and the City Manager expressed their good wishes to Councilman Adams for success in his new job as Supervisor of the 4th District of Stanislaus County.

Councilman Mellis introduced

RESOLUTION NO. 54-375

seconded by Councilman M. Adams, as follows:

"WHEREAS Robert W. Adams has acted as a Councilman for the City of Modesto since April 27, 1951, and

WHEREAS Mr. Adams has been elected to the office of Supervisor of the Fourth District of the County of Stanislaus, effective January 3, 1955, and

WHEREAS as a member of the City Council he has been instrumental in directing the affairs of the City of Modesto and has unselfishly assumed the burden of government, and

WHEREAS, he has brought to the government of the City of Modesto a calm, thoughtful and intelligent attitude in the solution of civic problems,

NOW THEREFORE, BE IT RESOLVED as follows:

1. That the resignation of Robert W. Adams, as Councilman of the City of Modesto, be accepted, effective as of December 9, 1954
2. That the City Council through this resolution hereby expresses to Robert W. Adams its appreciation on its own behalf and on behalf of the citizens of the City of Modesto for the many hours which he has devoted for the welfare of his city and in the solution of the many problems confronting a present day municipality.
3. That this resolution shall be spread upon the minutes of the Council of the City of Modesto and that a copy be delivered to Robert W. Adams as an expression of gratitude to him for his service to the City of Modesto and as evidence that his resignation is regretfully accepted."

which resolution was regularly adopted by the following vote:

AYES: Councilmen: M. Adams, Annan, Arata, Mellis, Merrill and Mayor Marks

NOES: Councilmen: None


ABSENT: Councilmen: None

The City Attorney outlined the charter requirements for the appointment of a successor to Councilman R. Adams on the Council.

#### ADJOURNMENT

Councilman M. Adams moved, seconded by Councilman Annan, and it was unanimously carried, that the meeting now in session adjourn. The meeting was adjourned at 10:45 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 building, 14th and I Streets.

The City Clerk called the roll and there were  
Present: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and  
Mayor Marks  
Absent: Councilmen: M. Adams

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

Invocation was given by Rev. W. B. Judge, pastor of the Calvary Baptist Church.

#### APPROVAL OF MINUTES

Council members having received copies of the minutes of the Council meeting of Dec. 1, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

#### APPOINTMENT OF MARVIN L. HECKENDORF TO THE VACANCY EXISTING IN THE OFFICE OF COUNCILMAN OF THE CITY OF MODESTO

Councilman Mellis introduced

#### RESOLUTION NO. 54-377

seconded by Councilman Arata, appointing Marvin L. Heckendorf to the office of Councilman of the City of Modesto to fill the vacancy created by the resignation of Robert W. Adams, to serve until the next general municipal election to be held in April, 1955, or until the next special municipal election, as provided in Section 702 of the Charter of the City of Modesto, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Mellis, Merrill, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

The oath of office was administered by the City Clerk.

Various members of the Council pointed out the outstanding qualifications of Mr. Heckendorf for this position and expressed appreciation to him for having consented to serve.

Councilman Heckendorf replied with the statement, "I wish to thank you for the confidence you have shown in me. I will serve our city to the best of my ability and will always try to be fair and unprejudiced."

#### LETTER FROM LOUIS P. BALDINI RE: CITY HALL CONSTRUCTION

A letter from Louis P. Baldini offering his services as an architect, in the construction of the proposed city hall was read and ordered filed with other offers previously received.

#### LETTERS FROM GOVERNOR KNIGHT AND VARIOUS CITIES REGARDING SMOG PROBLEM

Letters from Governor Knight and Cities of Fresno and Merced, acknowledging Mayor Marks' letter, regarding the prevention of smog in the Central Valley, were read and ordered filed.

The City Manager reported that this problem had been discussed at a City-County Committee meeting recently and it was agreed that all

cities should work with the State and support a program to get preventative measures adopted statewide.

APPROVE SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS FOR GASOLINE FOR PERIOD JANUARY 16, 1955 to JANUARY 15, 1956

Specifications for the furnishing of gasoline during the period from Jan. 16, 1955, to Jan. 15, 1956, were presented for Council consideration. Councilman Arata introduced

RESOLUTION NO. 54-378

seconded by Councilman Merrill, approving the specifications for gasoline during the period from Jan. 16, 1955, to Jan. 15, 1956, and authorizing the calling for bids to be opened at 2:00 P.M. Jan. 3, 1955, in the office of the City Clerk, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Mellis, Heckendorf, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

AUTHORIZE TRANSFER OF FUNDS FROM GENERAL RESERVE TO SEWER DIVISION FOR CONSTRUCTION OF SEWER (STORM) IN EIGHTH STREET BETWEEN L AND N STREETS

Upon the recommendation of the City Manager, Councilman Merrill introduced

RESOLUTION NO. 54-379

seconded by Councilman Arata, approving the appropriation transfer of \$3,640 from the General Reserve to the Sewer Division, Miscellaneous Storm Drains, for financing the balance of the cost on the Eighth Street storm sewer project, dry wells and other miscellaneous structures and a proposed cooperative project with the Division of Highways on Yosemite Blvd., which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill, and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

AWARD BID ON CONSTRUCTION OF STORM SEWER--EIGHTH STREET BETWEEN L AND N STREETS

Tabulation of the bids received for the construction of storm sewer in Eighth Street, between L and N Streets, which had been opened in the office of the City Clerk at 2:00 P.M. Monday, December 13, 1954, were distributed for Council consideration. Director of Public Works Ray recommended that the low bid of \$5,116.00 received from Ted Swinford be accepted. Councilman Annan introduced

RESOLUTION NO. 54-376

seconded by Councilmen Mellis, accepting the bid of Ted Swinford of \$5,116.00 for the construction of a storm sewer in Eighth Street between L and N Streets, and authorizing the execution of contract for the work by the city's designated officials, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor  
Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

## DISCUSSION ON PROGRAM FOR PAVING OF STREETS AND CONSTRUCTION OF STORM SEWERS

Councilman Mellis pointed out that the recent storms indicated the need for a program on the construction of storm sewers. He suggested that the Council authorize the Public Works Department to make a study and offer a program for its consideration at which time methods of financing the program could be discussed. He stated that the citizens of the city should know just what they are confronted with.

Director of Public Works Ray reported that he had consulted with the Modesto Irrigation District last year, in regard to use of its laterals for storm drainage, but this has not been cleared. He stated that the city's engineering staff had spent considerable time last winter on a study of the storm drainage problem in the section lying north of the M.I.D. lateral #4, south of M.I.D. lateral #3, over to U.S. Highway 99 and he pointed out that the same sort of study should be made of other areas. There are also a number of sections in the older part of the city, he stated, where the same type of study should be made because of inadequate storm drainage facilities. It had been planned to make this study and base the program on a unit area basis rather than an overall complete picture at one time. He reported that several attempts to fill existing vacancies on the engineering staff have so far been unsuccessful.

Mayor Marks pointed out that until the storm sewers had been constructed that it would be impossible to adopt a program for the paving of the streets, both projects recommended by the Forward Modesto Committee.

The City Manager stated that the study made in the Northwest areas last winter, a summary of which had been sent to the Council, showed that the nature of the problems indicated that it would have to be solved area by area. He stated that the survey work being done at this time in the construction of the sanitary sewer lines in the LaLoma Area would be of some assistance in the storm sewer program in that area. It has been planned to assign engineering staff to the storm sewer program as soon as the LaLoma sanitary sewer work is completed, which will be approximately six months, he stated. However, he stated, if all the existing vacancies are filled, it may be possible to start work sooner.

## DISCUSS DAMAGE TO HANSEN'S PLUMBING SHOP DURING RECENT STORM

Councilman Arata reported that he had been called during the recent storm by George Hansen, operating Hansen's Plumbing Shop, 429 Tully Road, who stated that the water was running out of the toilet bowl in his shop onto the floor of his display room where he had appliances and fixtures stored. This had done considerable damage, Councilman Arata stated, and he questioned if the storm water had been connected with the sanitary sewer. What the city's liability would be in this damage to Mr. Hansen's shop. He stated that the city should not dump storm water into the sanitary sewer lines.

The City Manager pointed out that many cities do connect the storm water up with the sanitary sewers. It has been done in this city for many years where there is no other way to solve an intolerable drainage situation. He suggested that the City Attorney be allowed to check out the engineering facts in this case before he determined the liability.

Director of Public Works Ray reported in detail on the incident referred to by Councilman Arata. He stated that Howard Parker, Construction Maintenance Superintendent, and he arrived at the plumbing shop at 6:30 P.M. and water was on the floor at that time. He could not enter the building because no one was present. However, storm water on the outside of the building was at a higher level. It was impossible to see any water flowing out of the toilet bowl, as reported by Councilman Arata, he stated. While he had been in that territory, the manholes had been

inspected and it was found that they were overflowing in some cases. South of the area the water was down about 18 inches in the sanitary sewer manholes. Pumps were installed in the area and a great deal of the water was pumped out of the low areas into the storm drains. Inspection of the shop at about 1:30 A.M. indicated that the water had disappeared from the floor. Mr. Ray stated that Mr. Hanson had called him the next day regarding the situation and damages to his building. Mr. Ray pointed out that the storm water was not connected to the sanitary sewer in this location and that he was at a loss to know how this had occurred. He pointed out that it was possible not only at this location but everywhere for the rain water to enter the sanitary sewers through lids of the manholes but that it was necessary to have the holes in the lids.

Mr. Ray pointed out that the city's engineering department was analyzing this particular situation and surveying the lines as they exist in that location, and would submit a report as to what would be necessary to correct the situation as it exists and which affects individuals at this location. He stated that the problem of reverse flow which Mr. Hansen has described, but which he did not see, has not occurred before to his knowledge.

Councilman Arata asked that Director of Public Works Ray furnish him with a letter that the storm water was not connected to the sanitary sewers in the area adjoining the Hansen's Plumbing Shop.

The City Attorney pointed out that the mere draining of storm water through the sanitary sewers would create no liability on the city's part.

Mayor Marks outlined for Councilman Heckendorf the obligation of the property owners to pave their own streets. The City Clerk was asked to send Mr. Heckendorf a copy of the report recently prepared by Traffic Engineer Carmody on Street Deficiencies in the City.

#### REPORT ON PROGRESS OF STREET LIGHTING IMPROVEMENT DISTRICT

Director of Public Works reported that plans for the street lighting improvement district in the business district were nearing completion. Several consultations had been held with the Chamber of Commerce Committee on the basis of assessment and one more meeting was planned on this phase of the program which would complete the whole project for Council consideration.

#### CITY MANAGER REPORT ON PENDING ITEMS

The City Manager reported that the Council would be furnished with copies of the presentation made before the All American Cities Award Committee in Kansas City. He pointed out that this city had "covered a lot of ground, made a lot of progress". He stated that the list of pending items would also be presented for Council consideration, as to priority. He suggested that the Council adjourn one of its regular meetings in the near future and discuss the list so that priority could be assigned to the many pending projects.

#### DISCUSS REQUEST FOR PAVING OF HELEN AVENUE BY PROPERTY OWNERS

The City Manager reported that some of the property owners in Block 615 and a portion of Block 630, facing Helen Avenue between High Street and Muir Road, had requested that the street be paved in accordance with the city's offer of 20% participation in the cost. He pointed out that the city's John Muir Park was located on one side of the street which would also involve the city in the project. He suggested to the Council that this request be considered as a means of demonstrating how the proposed street improvement program, as proposed by citizen's committees, would work and asked whether the city should endeavor to obtain other blocks in

the area to include in the project. He stated that drainage was provided in this particular portion of the area.

The Council agreed that the project be approved and the administrative staff proceed with the necessary arrangements, and that this be used as an example of city participation in the cost of paving, as recommended by the committees and as provided in the budget.

HEARING ON VACATION OF UTILITY EASEMENT IN BLOCK 2085 (GIAHOS REQUEST)

Mayor Marks declared the hearing open for the proposed vacation of ten foot utility easement in Block 2085 of the Fox Tract (extending in a general easterly-westerly direction).

The City Clerk stated that the resolution of intention had been published in the official newspaper of the City of Modesto as required by law. The Director of Public Works stated that the proposed public service easement vacation had been posted in accordance with requirements of the state law.

No written or oral protests were filed objecting to the vacation of the easement.

The City Manager reported that the various public utility companies had been contacted and had offered no objections. Letters had been received from all except the M.I.D. which had indicated no objections, by phone. The Telephone Company had indicated that it might be necessary to make some special adjustment if it ran into any problems. He stated that on the basis of information and due to lack of objections and the request made by Mr. Giahos, that he recommended that the easement be vacated. Mayor Marks declared the hearing closed. Councilman Merrill introduced

RESOLUTION NO. 839-S.P.

seconded by Councilman Arata, declaring the vacation and abandonment of that certain public service easement ten feet in width extending in a general easterly-westerly direction through Block 2085 of the Fox Tract, City of Modesto and directing that a certified copy of this resolution be recorded in the office of the Recorder of Stanislaus County, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE CALL FOR BIDS ON CONSTRUCTION OF TRAFFIC SIGNALS AND STREET LIGHTING AT 14th AND H STREETS

Plans and specifications for the construction of traffic signals and lighting at 14th and H Streets were outlined by the City Manager. Councilman Arata introduced

RESOLUTION NO. 54-300

seconded by Councilman Merrill, approving the plans and specifications for the construction of traffic signals and lighting at 14th and H Streets, and authorizing the calling for bids to be opened at 2:00 P.M. January 4, 1955, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: M. Adams

The City Attorney stated that he had been asked by various citizens why the city did not use the system of installing one signal in the middle of the intersection which would save the cost of putting signals on all four corners, and asked for comparative costs.

Traffic Engineer Carmody stated that this type of signal would be acceptable but that it depended upon what type of service the city wished to furnish to the motoring public. He stated that he did not know of any city in the state which was installing this type of signal. The most important factor, however, he stated, is that this type of signal would not be as easily visible to the motorist or pedestrian as the other type. He pointed out that at various intersections, many accidents had occurred due to the fact that the motorist did not see the signal even as presently installed. He stated it was planned to adjust some of the signals at these intersections so that they would bear more directly on the driver.

#### DISCUSS PRELIMINARY REPORT ON TRAFFIC STUDIES AT 19th & LALOMA STREETS

The Traffic Engineer presented maps to the Council members showing the "turning movement and collision diagram in the vicinity of 19th and H Streets". He stated that presently the major flow of traffic, which was on 19th Street, was being stopped to let the minor flow of traffic through on H Street. He pointed out the various other factors to be taken into consideration in the solution of the traffic problems at this 5 leg intersection, which were the regulation of traffic at intersection of Burney and LaLoma and intersection of McHenry and Needham, J St., 17th St. and Downey Avenue. He stated that the maps were presented for the Council to study since he would soon have four proposals to offer for the possible solution of the problem at this intersection. He pointed out that the location of the freeway in the city would call for many changes in routing traffic through the city to connect with the highway.

#### FINAL ADOPTION OF ORDINANCE NO. 9-C.S. ACQUISITION OF DRYDEN PROPERTY

The City Manager reported that Mr. Durand was anxious that the sale of his property to the city be completed prior to January 1, 1955, for tax reasons. For the same reason Mr. Dryden wishes the transaction on the gift of his land to the city for the golf course not be completed until after January 1, 1955.

A general discussion was held and it was agreed that if the City Manager could work out satisfactory arrangements with Mr. Durand where he would agree to repurchase his property if for some reason the Dryden gift transaction was not executed, that the purchase of the land from Mr. Durand could be completed prior to the first of the year.

Ordinance No. 9-C.S. entitled: "AN ORDINANCE RELATING TO THE ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF AN EIGHTEEN HOLE MUNICIPAL GOLF COURSE BY THE CITY OF MODESTO", having been heretofore introduced and ordered printed and published at the regular meeting of December 8, 1954, Mayor Marks moved, seconded by Councilman Mellis, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes:	Councilmen:	Annan, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks
Noes:	Councilmen:	None
Absent:	Councilmen:	M. Adams

Ordinance No. 10-C.S. entitled: "AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY FROM KENNETH H. DURAND AND GLADYS S. DURAND FOR USE BY THE CITY OF MODESTO FOR MUNICIPAL GOLF COURSE PURPOSES", having been heretofore introduced and ordered printed and published at the regular meeting of December 8, 1954, Councilman Mellis moved, seconded by

Councilman Arata, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

FINAL ADOPTION OF ORDINANCE NO. 11-C.S. REGULATION IN PARK AND RECREATION AREAS (ANIMALS)

Ordinance No. 11-C.S. entitled: "AN ORDINANCE ADDING CHAPTER 4 TO TITLE XII OF THE MODESTO MUNICIPAL CODE, REGULATING THE USE OF PARK AND RECREATION AREAS AND FACILITIES", having been heretofore introduced and ordered printed and published at the regular meeting of December 8, 1954, Councilman Mellis moved, seconded by Mayor Marks, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

FINAL ADOPTION OF ORDINANCE NO. 12-C.S. (LEASE WITH NAVY)

Ordinance No. 12-C.S. entitled: "AN ORDINANCE APPROVING THE LEASE OF CERTAIN AIRPORT PROPERTY TO THE UNITED STATES OF AMERICA AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT IN CONNECTION THEREWITH", having been heretofore introduced and ordered printed and published at the regular meeting of December 8, 1954, Councilman Merrill moved, seconded by Councilman Annan, that the ordinance be finally adopted, which motion was upon roll call carried by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

CONSIDERATION OF FINAL ADOPTION OF ORDINANCE NO. 8-C.S. TRUCK LICENSE ORDINANCE

For the information of the representatives from wholesale concerns who were present, Mayor Marks briefly outlined the background of the discussion held at the meeting of December 8, regarding the introduction of Ordinance No. 8-C.S. regulating the fees for truck operators who have no fixed place of business in the city. He pointed out that a change in rates was requested by local cleaners and was not meant to bring in additional revenue to the city. Its purpose was to equalize the taxes and fees paid by the inside and outside operators and to protect the local merchants from unfair competition.

As requested by the Council, the City Manager filed a report, which was to be considered before final adoption of the ordinance, on a survey of the license fees charged for outside firms doing business by means of trucks in 17 cities in the area surrounding Modesto, and the relation of those fees to the firms having an established place of business in the city.

The City Attorney reviewed the fees charged truck operators doing business with no fixed place of business in the city as it presently exists and the fees established in the ordinance which had been introduced last week, which broke down the types of trucks into three categories, "wholesalers", "transportation service" and "others".

He reported that the matter of increasing the fee for wholesale operators having a fixed place of business in the city, which is presently \$10 per year, to \$25 per year, as suggested by a local wholesaler, was discussed but no action taken pending the information which was just furnished by the City Manager on other cities. He pointed out that one of the problems involved in the change of rate fee for the out of town wholesaler from \$10 to \$50 and \$75 was based on the assumption that the rate fee within the city would be raised because the courts held it to be unconstitutional for the city to erect a tariff barrier around its city limits. He stated that there must be some reasonable basis for the establishment of inside and outside fees. It is impossible to say what ratio is lawful and what ratio is not lawful but cases would indicate that the ratio of two or two and one half to one would be reasonable. He pointed out that unless the rate fee for the wholesaler within the city was raised the ratio would be five, or more, to one which would appear somewhat questionable.

A letter was filed by Langendorf United Bakeries, Inc. protesting to the proposed increase license fees for operators of wholesale delivery trucks. The letter pointed out that if Modesto increased its license fees for wholesale delivery trucks, the tendency would be for neighboring cities to follow the pattern and that such action would adversely affect future status of Modesto as a distribution center and would remove at least a part of the incentive that the company and undoubtedly others, have had for concentrating distribution activity in Modesto.

The City Attorney pointed out since the company had a fixed place of business in the city it would not come under the higher rate proposed in the ordinance which had been introduced.

Howard Balleras, of the Shell Oil Company outlined the various types of operations of the company, which he stated, was the same type of operations as other oil companies operating in and near Modesto and asked for clarification of the fees to be paid on each type under the proposed ordinance. The City Attorney outlined the fees to be paid under the various activities.

A representative from the Gravem-Inglis Company, operating outside the City of Modesto filed a protest to the proposed increased rate fee for wholesale operations without a fixed place of business in the city. He stated that his company considered the proposed rate as discriminatory.

Ray Jones, operating the Central Valley Grocers, which is located within the city, stated that his company paid license fees in a great many cities. He pointed out that the fees paid, as stated by Mayor Marks, did not contribute a great deal to the cities' revenue and they proved a great nuisance to companies which made deliveries in a large number of cities. He stated that his company would not object to an increased tax to operate in the city but would like for the Council to consider waiving the license fee for any wholesale operator delivering in the city without a fixed place of business in the city. He stated, "we think it would be the best thing you could do and we think it is a big mistake (increase in license fees). We have contacted every wholesaler in town and we could not find a man who was in favor of you increasing the tax."

Mayor Marks pointed out that the idea of increasing the fee was not the Council's but was requested by merchants operating in the city.

The City Manager reminded the Council that the business license was a very complicated matter and one part could not be changed without effecting other parts of the ordinance. The relationship which exists between the various parts have to be taken into account. He stated that since last week's meeting he had discussed this with a number of represent-

atives of other cities and they too were concerned about the lack of uniformity of license fees. He stated that some of the other cities would like to have an opportunity of considering the desirability of uniformity.

Mr. P. Arnold Anderson, Executive Vice President, of the Municipal License Tax Association, who stated he represented several wholesale concerns operating in the city, pointed out that the license fee of \$50 listed in the report for the City of Stockton was for peddlers only and that the regular wholesale license for those outside the city was \$15.00 for six months. He pointed out that the average fee for cities was \$25.00 a year. He stated that many other cities were having the same trouble as Modesto in establishing license fees. He suggested that the Council meet with members of his organization before any action was taken and he offered his cooperation. He stated that there had been a feeling that in order to stop competition that the tax should be increased on those operating in the city with no fixed place of business, such as the dry cleaners and laundries had done in this instance. If the city wishes, he stated, it would be possible to put a special tax on a special classification such as the dry cleaners and it would be possible to separate the "service classification" of operations from the "selling and delivery of commodities type of operations." Before any ordinance is adopted, he urged the Council to give further consideration to the possible classification to segregate the "service" from the "wholesalers" type of operation.

Mr. D. C. Fingerly, contended that a high license was to discourage competition. He suggested that the Council consider establishing a different business license based on the classification of the business. He stated that when the ordinance was adopted by Modesto to require the licensed truck operators to paste stickers on their trucks, it was thought it would eliminate "free delivery" but it has not done so. He stated that more instructions should be given to persons when the license was secured that it was mandatory to place the sticker on the truck.

The City Manager stated the ordinance was being enforced the best it could be with the limited force available. He suggested that it would be helpful if people would take license numbers of trucks which were being used in distribution which did not display the sticker and turn the number into the city hall. He pointed out that this matter of increased license fee had not been raised by the Council but by a group of citizens that had a problem and these citizens were not present at this time and that Mr. Byllings who had raised the suggestion of increasing the wholesale license within the city was not present either to present his side. He pointed out that the Council could at this time either 1) pass the ordinance as is, or 2) amend it, or 3) hold it over. He pointed out that it would be fair to have the people most directly concerned present.

The City Attorney stated that the two ways to identify licensed trucks, stickers, or metal tags were considered when the ordinance was adopted and it was considered that stickers would be the most economical.

A representative from the Carnation Milk Company stated that he had contacted the Golden State Milk Company and they both considered license fees to be a nuisance. He pointed out that the state law prohibited putting stickers on windshields. (State laws permit them in lower right hand corner.)

Mr. Balleris asked if it was possible to hold up final adoption of the ordinance until his company, (Shell Oil Co.) could get in touch with the Western Oil and Gas Company for consultation.

The City Manager suggested that the matter could be cleared out during the next quarter (in which case, the ordinance would not be effective until April 1st), so that interested parties could be heard from.

Councilman Merrill moved that due to the confusion existing at the present time, and since many people who would be effected were not notified, that a further study be made and the final adoption be held over until this could be done.

Mayor Marks, with the consent of Councilman Merrill, amended the motion to provide that at the next City-County Committee meeting a discussion be held on the problem of uniformity of license fees.

Councilman Mellis pointed out that local business concerns needed protection, that the problems were not the same for other cities in the county, and recommended that Modesto should solve its own problems.

A representative of the Blue Bird Potato Chips protested the increase of license fees, since it was not a source of income and would prove to be a policing problem for the city and a nuisance to the wholesalers.

Mayor Marks withdrew his amendment to the motion, with the consent of Councilman Merrill.

Councilman Merrill moved, seconded by Councilman Annan, and it was unanimously carried that the matter be referred to the administrative staff to be resolved in advance of April 1, 1955.

The City Manager recommended that all the wholesale companies present at the meeting leave their names and addresses with the City Clerk so that they could be notified. It was agreed by the Council that all licensed wholesalers be notified.

CONSIDER INSTITUTION OF LEGAL PROCEDURE TO ABATE A VIOLATION OF THE ZONING ORDINANCE (CHARLES MICHAEL, ACCOUNTANT OFFICE, 315 MAGNOLIA AVENUE)

The City Attorney reviewed the background on the matter of the abatement of unlawful use of residence structure by Charles E. Michael, public accountant, at 315 Magnolia Avenue. He stated that on Oct. 28, 1954, he had advised Mr. Michael that under the provisions of the existing zoning ordinance the conducting of an accounting office at this location, which is a single family residence district, was unlawful. He stated that he had indicated to Mr. Michael in writing, that if he did not discontinue his use of the property for commercial purposes on or before December 1, 1954, that consideration would be given to the institution of criminal or injunctive proceedings being instituted for violation of the law.

Mr. Robert Elledge, attorney for Mr. Michael, has advised, the City Attorney stated, that Mr. Michael is still operating at the location and he is unwilling to discontinue the use of the property for the purpose of conducting an accounting business.

Mr. Elledge, who was present, stated that he wished to point out that the records would show that Mr. Michael first occupied these premises on January 1, 1942, and acquired the property in 1943, for the purposes which he is presently using it, that he was not aware of the zoning ordinance in question and that the city during all these years has licensed him to conduct a business at this location. He contended that Mr. Michael had a vested interest to continue using this property for these purposes due to these reasons. He stated that Mr. Michael's operations could be considered semi-professional and it was an asset in his business that his customers should know where his office was located and it would take a long time to adjust all his clientele to a new location. He pointed out that his client was not trying to defy the mandates of the city but that equity should apply in this case. He contended that the doctrine of estoppel should apply in this instance.

In the general discussion which followed, the following points were brought out:

1. That cars coming and going and parking at this location were obnoxious.
2. That approving this operation would break down the structure of the zoning ordinance and set a precedent for other similar types of operations in a residential district
3. That Mr. Michael was operating at this location in direct violation of the city ordinances
4. That the courts were reluctant to uphold the doctrine of estoppel against public agencies
5. Machines operated disturbed T.V. and radios in the neighborhood

The City Attorney outlined for the Council the alternatives in the matter; 1) litigate the matter and let the courts decide and if the use is wrong the courts will give an injunction, or 2) offer Mr. Michael a limited period of time to establish his business in a new location.

Councilman Merrill moved, seconded by Mayor Marks, that the City Attorney institute steps immediately to take whatever action is necessary to require Charles Michael to cease and desist his operations at 315 Magnolia Avenue within a period of 90 days, which was unanimously carried.

#### REPORT ON LICENSE FOR CONTRACTORS TO BE FURNISHED BY CITY MANAGER

The City Manager asked the Council, for the clarification of the records, whether a report on the problems raised by the local contractors on business license fees should be considered separate from the general business license revision. The Council agreed that a separate report should be supplied by the City Manager.

#### AUTHORIZE PAYMENT OF COUNTY OF STANISLAUS CLAIM FOR RODENT CONTROL AT MUNICIPAL AIRPORT

Upon the recommendation of the City Manager, Councilman Mellis introduced

#### RESOLUTION NO. 54-381

seconded by Councilman Arata, authorizing payment of the claim of \$58.96 of the Stanislaus County, Agricultural Commissioner, Milo M. Schrock for months of February, 1954, and March, 1954, for rodent control at the municipal airport, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: M. Adams

#### DISCUSSION OF TRAFFIC MATTERS

##### No Parking zone in alley between Arc Way and College Avenue

Traffic Engineer Carmody outlined the traffic problems existing in the alley in Block 447, between Arc Way and College Avenue, where cars and trucks were constantly being parked which prevented the tenants in the duplex apartments from backing their cars out of their garages. he

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recommended that a no parking zone be established in this alley.

Revision of truck route ordinance

It was recommended by the Traffic Engineer that a truck route be established to enable the trucks to proceed directly over an established route to the commercial area at Roseburg and Virginia Avenues to prevent them from using a variety of routes. He recommended that the truck route ordinance be amended to include Coldwell Avenue from North 99 Highway to Tully and Roseburg from Tully to McHenry Avenue.

Consideration of 2 hour parking zone on 11th Street and N Street

The Traffic Engineer stated that Mr. R. W. Diddock, operating a real estate office at 1409 11th Street, had requested that limited parking (2 hour) be established in this area. The rest of the people in that area also approve this request, he stated. He stated that it was his opinion that it would be better to have vacant spaces at certain times of the day instead of having the spaces filled up all day long with all day parkers which would prevent customers and owners from having a parking place.

A general discussion was held on the right of a property owner to have the parking spaces in front of his property vacant when there was a dearth of parking spaces for all day parkers.

The City Manager pointed out that when this request came up for final action the resident property owners could be notified and appear to present their opinions. Mayor Marks suggested that the Council members inspect the specific location before the next meeting.

Councilman Mellis moved, seconded by Mayor Marks, and it was unanimously carried, that the City Attorney prepare the necessary documents to establish a no parking zone in the alley in block 447 and to amend the ordinance to include that portion of Coldwell Avenue and Roseburg Avenue in the truck routes, as recommended by Traffic Engineer Carmody. Action on the establishment of two hour parking on 11th Street at N Street was deferred for Council inspection of the area.

RESOLUTION RESCINDING RESOLUTION NO. 8210-N.S. RELATING TO ESTABLISHMENT OF A RESERVED PARKING SPACE FOR THE POLICE DEPARTMENT AT 11th AND J STREETS

The Traffic Engineer reported that the Police Department had indicated that it had no further use for the reserved parking space on 11th Street at J Street in front of the Penny Store and he recommended that it be metered and used by the general public. Councilman Arata introduced

RESOLUTION NO. 54-382

seconded by Councilman Merrill, rescinding Resolution No. 8210-N.S., relating to the establishment of a reserved parking space for the Police Department on the easterly side of 11th Street at J Street, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Annan, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: Nene  
 Absent: Councilmen: M. Adams

MODESTO RETAIL MERCHANTS WITHDRAW REQUEST FOR ADOPTION OF ORDINANCE REGULATING "CLOSING OUT SALES"

A letter from the Modesto Retail Merchants, Downtown Division, withdrawing its request for the adoption of an ordinance to regulate

"closing out" sales, was read. Councilman Annan moved, seconded by Councilman Arata, and it was unanimously carried, that the request of the Modesto Retail Merchants for the adoption of an ordinance regulating closing out sales be tabled.

#### ACCEPT FINANCIAL REPORT FOR MONTH OF NOVEMBER, 1954

The financial report for the month of November, 1954, was accepted and ordered filed.

#### REPORT OF SEWER COMMITTEE

A general discussion was held by the Council on the proposed sewer improvement district for Fremont and Granger Additions.

The City Attorney pointed out the difficulties which would ensue if the procedure was followed which had been approved by the Council at its meeting of November 17, when the Director of Public Works was directed to notify the property owners by mail of the cut-off date when cash payment could be accepted, as provided by the municipal code, and at the same time the estimated cost under the assessment district. He pointed out if both of these quotations were received at the same time that a great many of the property owners would pay the \$100 fee provided by the code, which would result in a situation similar to the North Central Improvement District and result in confusion in the formation of the district and in a loss to the city in the construction of these laterals. He pointed out that the reduction in the number of parcels of property included within the improvement district procedures would have the effect of increasing the proportionate share of overhead that must be borne by those who remain in the district.

He stated that it was the opinion of the Director of Public Works and himself that it would be preferable to first notify all property owners by mail of the established cut-off date and the basis upon which the \$100 cash payment may be made. After the cut-off date has expired and the extent of the district determined, it would be their suggestion then that a more accurate estimated amount of the assessments under the improvement district be sent to the property owners.

Councilman Annan expressed disappointment that the same situation was going to arise in these districts as in the North Central Addition and stated that the general public should not be called upon to pay for other people's sewer laterals.

A general discussion was held on the question of violating the faith of the people who annexed to the city with the understanding that it would cost them a certain amount for sewer service. The Director of Public Works pointed out that property owners have had an opportunity to install on a cash basis and several blocks in these additions had already installed sewer laterals. They had hired a contractor and done the work under the city's supervision, as allowed by the municipal code. The city is allowed to make a charge for the inspection of the work. In this particular instance the work is being done for less than the established fee in the code.

Councilman Annan expressed the opinion that the code should be amended to increase the costs so that it would not be necessary for the general public to pay a portion of the cost as in the North Central Addition.

Mayor Marks recommended that the code regulations be reviewed with the idea of establishing an effective date when persons could be furnished sewer service (at the \$100 basis) and after that time the rate would be changed, after sufficient publicity had been given and to stick to this date.

Director of Public Works Ray pointed out that the ordinance had been written on the average cost and that in the North Central area there were special circumstances which increased the cost but that in other districts the cost would be less. He pointed out that if the cost was raised too high that the property owners would hire their own contractors and do the work under a private contract at less cost to them.

After considerable more discussion, Councilman Mellis moved, seconded by Councilman Heckendorf, and it was unanimously carried that the Director of Public Works be instructed to send a letter to the owners of record on the last equalized assessment roll in the proposed Fremont and Granger improvement districts, notifying them of their right to pay cash under the municipal code, indicating the cut-off date for acceptance of cash as 5:00 P.M., January 31, 1955, and advise them that the cost of doing it under the assessment district is not now available but normally it is higher than the cash price.

REPORT BY CITY MANAGER ON PROPOSED CONSTRUCTION OF BRIDGE ACROSS M.I.D. LATERAL NO. 3 AT COLLEGE AVENUE

The City Manager reported that plans for the construction of a bridge across M.I.D. Lateral No. 3 at College Avenue were not cleared as yet. It has not been decided whether the bridge is to be a two or four lane bridge and until certain other matters can be cleared, he stated, a firm recommendation on the type of bridge cannot be given. He pointed out that if for any reason a bridge was not constructed this year that at least a temporary footbridge should be built.

ADJOURNMENT

Councilman Mellis moved, seconded by Councilman Merrill, and it was unanimously carried, that the Council meeting now in session adjourn. The meeting was adjourned at 8:00 P.M.

ATTEST: REX E. GAILFUS, CITY CLERK

By: Anne M. Collins  
Anne M. Collins, 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 Building, 14th and I Streets.

The City Clerk called the roll and there were  
Present: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
Absent: Councilmen: Annan

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 December 8, 1954, and the same being available for public inspection, and there being no objections, the minutes were approved.

GRANT PERMIT TO MODESTO JUNIOR CHAMBER OF COMMERCE TO USE BUS LOADING ZONE AND TWO PARKING SPACES ON I STREET (EAST SIDE) BETWEEN 11th AND 12th STREETS

A request was filed by the Modesto Junior Chamber of Commerce for permission to use the bus loading zone, when not in use, on the southwest corner of 12th and I Streets, and two adjoining parking spaces, on January 15, 1955, from 9:30 A.M. to 5:00 P.M. to sell cases of Seven-Up which has been donated to the March of Dimes by the Seven-Up Bottling Company of Modesto. City Manager Miller reported that this would not present any problems which could not be solved and recommended that it be granted. Councilman Arata introduced

RESOLUTION NO. 54-386

Seconded by Councilman Merrill, granting permit to the Modesto Junior Chamber of Commerce to use the bus loading zone, when not in use by the buses, on the Southwest corner of 12th and I Streets and the two adjoining parking spaces on January 15, 1955, during the period beginning at 9:30 A.M. to 5:00 P.M., under the supervision of the Police Department, providing the city be held harmless from and against any and all costs, damages and liability arising out of the use of these premises, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
Noes: Councilmen: None  
Absent: Councilmen: Annan

GRANT PERMIT TO CARL J. BELLO TO HOLD DANCES AT PAMRON ROOM

The City Manager reported that Carl J. Bello had applied for a permit to operate a dance in the Pamron Room, 921 I Street. Some of the problems, he stated, had been solved by mutual consent and it is recommended that permit be granted on the condition that the occupancy be limited to 80 persons, and that the applicant meet the requirements of the Code.

The City Attorney stated that the matter of the necessary exits could be cleared administratively but it was necessary for the Council to approve the occupancy limitation. Councilman Mellis introduced

RESOLUTION NO. 54-387

Seconded by Councilman Heckendorf, granting permit to Carl J. Bello to

operate a dance on the premises of the Pamron Room, 921 I Street on the basis of the agreement made with the city's administrative personnel, and that the occupancy be limited to 80 persons, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

DISCUSSION OF ORDINANCE CREATING A PARKING COMMISSION AND REGULATING THE USE OF PUBLIC OFF-STREET PARKING FACILITIES

The City Attorney reviewed the action taken by the Parking Authority when it adopted the resolution recommending the submission of the off-street charter amendment to the voters on the basis that a Commission would be established to advise and assist the Council in the administration of the parking program. He pointed out that this general approach was informally approved at a meeting of the members of the City Council and Parking Authority as committees of the whole. He pointed out that it was first considered that the amendment should have some provision with respect to this but the Authority did not press this particular point and the Council had indicated that it did not want this in the charter amendment and that it would be done by ordinance, which would not be permanent in nature. He pointed out that it was considered by some that the authority deserved more than a program which called for its termination and which did not indicate the future roll to be played by its members in the parking program.

He stated that from this standpoint there was a desirable place in the parking program for an advisory body of lay citizens to act in an advisory capacity, similar to the Planning Commission, relieve the Council from the burden, and which would look at the parking problems with a less political eye.

He stated that the Council could not legally pass an ordinance creating the commission and eliminating the authority at this time but it could indicate its intention which would serve a good purpose, that after the election, a commission would be appointed. He outlined the powers and duties of the Commission as set out in the proposed ordinance.

A general discussion was held on provision 3-2.109 of the proposed ordinance, which provided that the members of the City of Modesto Parking Authority holding office immediately prior to the effective date of the proposed charter amendment should constitute the first members of the Commission. The City Attorney stated that it would be up to the Council to decide whether that would be left in the ordinance.

Objections to the section was voiced by various members of the Council for the following reason:

The present Council did not have the right to commit the Council which would be in office after the election to a certain program.

The City Attorney stated that he would recommend that the Council indicate its approval of the ordinance with the exception of Section 3-2.109 and that it should not take a position on this section. In this manner, he stated, it could indicate what the program would be and how it would be carried out.

Councilman Mellis stated that the city did not need a commission that the program could be the responsibility of the City Manager and that the Council in office after the election should not have its hands tied by the present Council.

A discussion was held on the centralization of a city government and the concentration of authority under the City Manager. The City Attorney pointed out, that while it was not true in this city, the Council should bear in mind that the accusation is often made that this form of city government leads to a dictatorship. He pointed out the advantages to the Council of having assistance on the parking program from a citizen commission.

The Mayor pointed out this accusation would not be true of Modesto because, 1) the Council believed in citizen participation in government, 2) the recommendation of the Public Administration Service was to dissolve the Authority, and 3) the City Manager was an employee of the Council and subject to dismissal by it, and not the people of the city, therefore, if anything "cropped up" in the administration of the parking program that the City Manager would bring it before the Council.

Councilman Mellis objected to the divided authority; to have a certain power get away from the Council; to the proposal that the parking should be different from any other problem of the City. He advocated that one head should be designated to look after all administrative matters in the city, with the policy set by the Council.

The City Manager stated that while he proceeded on the basis that it was a good idea "to get someone else to do the work" he raised the question as to whether or not the charter permitted the assignment of administrative duties to such a commission unless specifically authorized in the charter.

The City Attorney again reviewed the powers and duties of the Commission as proposed in the ordinance and likened it to the Board of Library Trustees and pointed out that the Commission would relieve the Council of doing the "leg work" as the Planning Commission and Personnel Commission.

The City Attorney reported that the Authority was considering the adoption of a resolution directing the Parking Authority Administrator to prepare a complete parking program for the needs of the community giving relative area location of parking facilities that will fill the needs of not only the downtown area but wherever the demand justifies the location of facilities.

Mayor Marks moved, seconded by Councilman Merrill, that the Council go on record as indicating approval of the proposed ordinance presented for Council consideration by the City Attorney, with the exception of Section 3-2.109. Mayor Marks declared the motion carried.

#### CONSIDERATION OF PARKING MATTERS

##### Prohibit parking on portion alley between College and Campus Way

As directed, the City Attorney presented for Council consideration a resolution prohibiting parking in a specified place in the alley between Campus Way and College Avenue. Councilman Arata introduced

#### RESOLUTION NO. 54-385

seconded by Councilman Heckendorf, prohibiting parking in a portion of the alley between Campus Way and College Avenue and directing the Traffic Engineer to mark and post the area, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

Ordinance amending Ord. 345-N.S. provide for truck routes to be established by resolution

The City Attorney outlined the provisions of a proposed ordinance which would provide for the designation of unrestricted traffic streets by resolution. He stated that this was in compliance with the request of the Traffic Engineer for the establishment of Coldwell Avenue from North 99 Highway to Tully and Roseburg from Tully Avenue to McHenry Avenue, as truck routes. He stated that after the effective date of the ordinance that a resolution could be adopted designating these streets as unrestricted traffic streets.

Councilman Adams moved the adoption and passage to print of

ORDINANCE NO. 13-C.S.

entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 345-N.S. OF THE CITY OF MODESTO ENTITLED 'AN ORDINANCE REGULATING TRAFFIC UPON THE PUBLIC STREETS OF THE CITY OF MODESTO', AS AMENDED", which motion being duly seconded by Councilman Heckendorf, was upon roll call carried and ordered printed and published by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

Establish limited parking on N Street between 10th and 11th Streets

Traffic Engineer Carmody reviewed the request of property owners adjacent to the intersection of 11th and N Streets for limited parking on these streets, due to the fact this area was being used by all day parkers, which had been held over for Council consideration pending "on the spot" investigation by its members.

Mayor Marks suggested that limited parking be established only on N Street, between 10th and 11th Streets to relieve the problem.

A general discussion was held on the possibility of establishing a parking lot to be used by all day parkers.

Councilman Arata recommended that the Authority investigate the possibility of leasing additional area from the Southern Pacific Company between K and L Streets and grading and ciling it for use by all day parkers. Councilman Merrill moved, seconded by Councilman Arata that the City Attorney be instructed to prepare a resolution for Council consideration establishing two hour parking on both sides of N Street, between 10th and 11th Streets temporarily, pending a solution of the downtown parking problem.

Authorize removal of stop signs on Orangeburg at Sycamore Avenue

The City Manager reported that the Traffic Engineer had discussed the removal of the stop signs on Orangeburg Avenue at Sycamore with the school representatives and organizations in charge of school safety and no objections were offered. He stated that the Police Department has been requested to give some special attention to the area if it is warranted. The Traffic Engineer outlined the reasons for the proposal that the signs be removed. Councilman Mellis introduced

RESOLUTION NO. 54-384

seconded by Councilman Heckendorf, authorizing the removal of the stop signs on Orangeburg Avenue at its intersection with Sycamore Avenue, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

Authorize the removal of stop signs on College Avenue and Tenth Street at intersection with Needham Avenue and the commencement of operation of automatic traffic signals at said intersection

Councilman Merrill introduced

RESOLUTION NO. 54-383

seconded by Councilman M. Adams, authorizing the removal of boulevard stop signs on College Avenue and Tenth Street at their intersection with Needham Avenue, and authorizing the Traffic Engineer to commence the operation of the automatic traffic signals at said intersection as of December 23, 1954, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

CONSIDERATION OF BALL PARK MATTERS

Mayor Marks recommended that the following persons be appointed as a temporary committee to consider ball park matters: Councilman Mellis, Chairman, Councilmen Lyndall Merrill and Dave Arata, Ray W. Jones, Tom Mellis, Floyd Benson, M. Lowenthal, W.W. Giddings, Jr., Trevor Griffith, C. H. Craig, Bob Stitt, and John Delphia. Councilman M. Adams moved, seconded by Mayor Marks and it was unanimously carried, that the above named persons be named as a temporary committee to consider ball park matters. The City Clerk was asked to notify the members that a meeting would be held Monday, December 27, at the Elk Hall at noon.

The City Manager reported that the settlement for the loss by fire at the ball park had been worked out by the insurance company and the city staff. The company has indicated its intention to reimburse the city for its loss in the amount of \$21,134.92 on the grandstand, fence and other buildings, and \$2,732.50 on the flood lights. He recommended that this offer be accepted. Councilman Merrill introduced

RESOLUTION NO. 54-388

seconded by Councilman Arata authorizing the City Manager to execute proofs of loss in the aforesaid amounts on behalf of the city, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

It was agreed by the Council that the preliminary plans for the rebuilding of the park would be discussed at the committee meeting, at which time a member of the city's staff would be present to explain the plans.

The City Manager reminded the Council of the proposal to raise funds to enlarge the ball park by having a special charge placed on the tickets. He suggested that this matter also be referred to the ball park committee for discussion.

AUTHORIZE CALL FOR BID ON BRIDGE ACROSS M.I.D. LATERAL #3 AT COLLEGE AVENUE  
AFTER PLANS AND SPECIFICATIONS ARE APPROVED BY THE STATE

The City Manager reported that the plans and specifications had been completed for the construction of a bridge across M.I.D. lateral #3 at College Avenue, which had been budgeted for this fiscal year. At the request of Mayor Marks, Planning Director Smeath gave the Council and those present a resume of a study for a preliminary plan for the City of Modesto and its environs which had been prepared by the city's planning staff. He related this study plan to the proposed construction of a bridge across the canal at College Avenue. The City Manager suggested that the city proceed to build a bridge across the lateral since it would be unfair to those who had counted on the bridge in the development of the surrounding area, but that the bridge be two lanes instead of four lanes. He pointed out that statistics demonstrated that a two lane bridge would serve the area for many years. He stated that the plans and specifications were complete and the city was ready to go to bid except for clearance on the plans by the state bridge department, which would only require a few days.

Councilman Arata brought up the point that if it would be necessary to widen the bridge to four lanes in four years that it would be advisable and a savings to the city to construct a four lane bridge at this time.

The City Manager stated that it was originally planned to improve College Avenue as a four lane street and that rights of way had been secured for a portion of the street. The decision of whether the street should be a four or two lane street was up to the Council, he pointed out. However, he continued, the Traffic Engineer has recommended that whenever a four lane street is developed in the city, that there should be a center strip in the middle of the street since a four lane street created a safety problem for pedestrians crossing the street.

Councilman Arata asked if a two lane bridge on this street would not create a traffic problem of motorist running into the rail on the narrower bridge.

The City Manager stated that the plans for the construction of the bridge would not create this problem since the bridge would be 40 feet from curb to curb. He also pointed out that rights of way for a four lane street had not been secured for the full length of the street but only a portion.

The Traffic Engineer reported on the number of cars that a two lane bridge could accommodate and compared the traffic over the proposed bridge to other bridges and intersections in the city, which demonstrated that a two lane bridge would be satisfactory for at least 15 years. Plans for the development of Briggsmore Avenue as it related to the bridge were also discussed.

Director of Public Works Ray stated that the bridge would be 53 feet from head wall to head wall and that the type of construction, which would be flush with the canal, would not create a turning problem on Briggsmore Avenue. He asked that the Council authorize the calling for bids, since there would not be a meeting next week, subject to the approval of the bridge department of the State Highway Department, so that time would not be lost in getting started on the construction during the time the canal was free of water.

Councilman Adams introduced

RESOLUTION NO. 54-389

seconded by Councilman Arata, approving the plans and specifications for

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the construction of a two lane bridge across M.I.D. Lateral #3 at College Avenue and authorizing the calling for bids after the plans and specifications have been approved by the Bridge Department of the State Highway Department, said bids to be opened at 2:00 P.M. January 10, 1955, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: Adams, Arata, Heckendorf, Mellis, Merrill and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

CONSIDERATION OF PROPOSALS FOR SIMPLIFYING CAPITAL IMPROVEMENT PROGRAM PROCEDURE FOR YEAR 1955-56

The City Manager stated that the municipal code provides that the Planning Commission is charged with the preparation of a six year long range program for the future, which is to be submitted by May of each year. He pointed out that the Council had previously approved a capital improvement program for the present fiscal year. He stated that after discussion with the Planning Commission it has seemed best to give primary attention to the major capital improvements on which considerable information is available and on which decisions must be made rather than on the details of a complete program. The Planning Commission has approved such a limited approach, he stated. He asked for Council approval on such a procedure. Councilman Merrill moved, seconded by Councilman Arata, and it was unanimously carried, that the report of the Planning Commission on the long range program for capital improvement for the year 1955-56 be based on the plan outlined above.

CONSIDER PROPOSAL FOR ESTABLISHING SAFETY COUNCIL

Mayor Marks offered the suggestion to the Council for its consideration that a Safety Council be formed, composed entirely of citizens and suggested Robert Wooldridge, who was Chairman of Safe Driving Day, as chairman. He pointed out that with the assistance of Traffic Engineer Carmody and Police Chief Neel, a program which would benefit the community could be developed. Chief Neel pointed out that such councils had been of great assistance to other communities and recommended the formation of a safety council for this community.

A discussion was held on the formation of a committee to appoint members of the council and to take whatever action would be necessary to create the Council. A suggestion that names be submitted by Council members was made and that the Police Chief check with other cities on the formation of their council. A suggestion was also made that the P.T.A. organizations be contacted as well as the automobile dealers to appoint representatives on the Council. It was also suggested that representatives from the surrounding area be appointed and that the Council be community wide instead of just city wide. Councilman Arata moved, seconded by Councilman Merrill, that Police Chief Neel and Traffic Engineer Carmody be authorized to work with Robert E. Wooldridge in the formation of a Safety Council for the community.

REPORT OF COUNCIL COMMITTEE ON SELECTION OF ARCHITECT FOR PROPOSED NEW CITY HALL

The City Hall Committee, composed of Councilman Annan, R. Adams, and Mellis filed a report on the selection of an architect for the proposed new city hall.

Mayor Marks stated that he had appointed Councilman Heckendorf to serve on this committee to succeed Councilman R. Adams. Councilman Mellis read the following report:

REPORT ON TIDEWATER SOUTHERN RAILWAY FRANCHISE SITUATION

The City Manager stated that a report had been received from the Tidewater Southern Railway Company that it had been unsuccessful in its efforts to work out an agreement with the Southern Pacific Company for the joint use of its tracks in the city limits instead of Ninth Street. He suggested that the Council authorize the administrative staff to check direct with the Southern Pacific Company officials to determine if something could be worked out. He pointed out that the city was obligated to check out every possible solution. Councilman Merrill moved, seconded by Councilman Heckendorf, that the City Manager and City Attorney be authorized to check with the Southern Pacific Company and the Public Utilities Commission to determine if any arrangements could be worked out for the joint use of the Southern Pacific Tracks by the Tidewater Southern Railway, which was unanimously carried.

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"The committee has interviewed a considerable number of architects who have expressed interest in the design of the proposed new city hall. The committee has considered both the advantages of obtaining a local architect and of obtaining outside assistance with more extensive experience in the design of public buildings. It was concluded that it would be wise for the city to obtain the services of an architect with broad proven experience in the design of such buildings including city hall design. It is recommended therefore that Milton T. Pflueger, Architect, San Francisco, be employed by the City. Mr. Pflueger has had extensive experience including the design and supervision of the construction of the Richmond Civic Center which is recognized nationwide as an outstanding example of this type of development. The committee believes that the design of the new City Hall will set a pattern for a high standard of both design and utility in future public buildings of Modesto.

Mr. Pflueger has agreed to take into account the wishes of the committee that a local architect participate in the project and has made arrangements to associate Mr. John Bomberger of Modesto, with him in the project if Mr. Pflueger is employed by the City."

Councilman Mellis pointed out that the arrangements for the participation of Mr. Bomberger in the project would be worked out by Mr. Pflueger at no extra cost to the city. Mayor Marks moved, seconded by Councilman Merrill, and it was unanimously carried, that the report from the committee on the selection of an architect for the proposed city hall be accepted and the City Attorney be authorized to prepare a contract for Council consideration for the employment of Mr. Pflueger.

The City Manager reported that the city's appraiser was already working on the valuation of additional land which might be needed in the construction of the city hall.

#### REPORT ON PROPOSED NATION-WIDE RADIO PROGRAM FOR MODESTO

The City Manager reported that the committee working on the nation-wide radio program for Modesto was progressing and funds were being collected. He reported receipt of a letter from the National Municipal League advising that the thirty-minute show would be devoted exclusively to Modesto, should Modesto decide to participate.

#### REPORT ON PROPOSED IMPROVEMENT FOR SEWAGE DISPOSAL PLANT

The City Manager reported that while the joint study conducted at the sewer plant in Hayward during the past summer had not given the City of Modesto all the answers which "we thought we should get", but sufficient information was available to permit the city to proceed with confidence with the construction of certain additional units. He recommended that the Council consider authorizing the construction, as rapidly as possible of an additional clarifier and biofilter, and the moving and enlargement of an existing clarifier. He pointed out that these units would be required, in any case, for treatment of domestic sewage. They can also, during the next industrial waste season, treat industrial waste to the limit of their capacities. This would provide for secondary treatment of domestic sewage and add considerably to the degree of treatment of industrial wastes by the plant. These facilities, when utilized in connection with existing ponds and other units, should handle the load for the 1955 season.

He stated that in connection with this program he recommended that the Council consider the construction of a small pilot plant to be constructed on a permanent basis and to be utilized for plant control

after a complete treatment plant is constructed to assure maximum efficiency. He estimated the cost of the pilot plant to be of the order of \$4/5,000 but that there was a possibility that this cost might be shared by other parties.

Councilman M. Adams, member of the Council Sewer Committee, stated that after attending various meetings at Hayward and discussing the program with Director of Public Works Ray and studying the reports of the joint study, he would recommend that the Council proceed with the proposed construction as rapidly as possible. He stated that he especially approved of the plan for the construction of the pilot plant which would permit tests of various operations in such a way that the entire plant would not be disturbed. He moved, seconded by Councilman Mellis, that the administrative staff be authorized to proceed with the plans and specifications for the construction of an additional biofilter and clarifier, relocation of the existing biofilter and the construction of the pilot plant.

Councilman Mellis, who is also a member of the Council Sewer Committee, expressed approval of the construction of the pilot plant since it would enable the administrative staff to collect data which would be needed in the plans for the completion of the plant and indirectly be a savings to the city.

Mr. Harry N. Jenks, consulting sanitary engineer, who was present, pointed out that the sewer plant area could ultimately be used as a recreational area during the entire year with the possible exception of the peak cannery season. He recommended that in the final plans that the Council consider the retention of one percolation bed which would serve as a buffer between the plant and river and be used during emergencies.

#### REPORT ON DEVELOPMENT OF TIDEWATER SOUTHERN RAILWAY COMPANY INDUSTRIAL PLANT

The City Manager reported that a meeting had been held with the officials of the Western Pacific Railroad which had been attended by Mr. Stratton, Rex Kearney and Jack Kennedy. They had indicated that their engineering staff had been assigned to start working with the city right after the first of the year on the development of its industrial area south of the city.

#### REPORT ON REQUEST FOR PAVING ON HELEN AVENUE

The City Manager reported that the Department of Public Works had estimated that the total cost for the paving of the block on Helen Avenue, between High Street and Muir Road would be approximately \$5,040., with the city's portion being \$3,603, which included the portion of John Muir Park which fronted on this block. He stated that although the cost to the city was considerable, he recommended it to be in the city's interest in developing action by the property owners within the city toward paving of city streets.

The City Manager stated that he would check out the suggestion made by Councilman Marvin Heokendorf that other property owners near the park be contacted to enlarge the proposed improvement area and that consideration be given to placing curbs and gutters all around the park.

The City Manager stated that he wished to make it clear to the Council that "the minute we get off of sewers we intend to proceed on a program for street and drainage improvement". Councilman Merrill moved, seconded by Councilman M. Adams, and it was unanimously carried, that the administrative staff be authorized to proceed with the plans for the paving of that portion of Helen Avenue between Muir Road and High Street.

REPORT ON INVENTORY TAX BY DIRECTOR OF FINANCE

Copies of a report on inventory tax prepared by Director of Finance Lawrence were distributed to Council members for study. Mayor Marks recommended that a copy be sent to Gilbert Swanson and other interested industrialists.

REPORT ON CITY SALES TAX ENFORCEMENT

Copies of a report on sales tax audits prepared by Director of Finance Lawrence were distributed to Council members for their study.

REPORT ON PURCHASE OF PROPERTY FROM KENNETH DURAND

The City Manager reported that he had asked Mr. Kenneth Durand, as requested by the Council to furnish the city a letter agreeing to repurchase the property from the city if for any reason the gift of the land from Mr. Dryden was not completed. Mr. Durand had stated that such a letter would jeopardize his position on taxes but he had assured him orally that he would cooperate with the City in such a case. It was agreed that the City Manager be authorized to proceed with the original plan to complete the transaction with Mr. Durand for the purchase of his property prior to the end of this calendar year.

AUTHORIZE CLOSING OF CITY HALL AT NOON ON DECEMBER 24 AND DECEMBER 31, 1954

Councilman Mellis introduced

## RESOLUTION NO. 54-390

seconded by Councilman Heckendorf, authorizing the closing of the City offices at noon on December 24 and December 31, 1954, and that the schedule for time off be worked out by the various department heads where it was necessary for employees to be on duty during these hours, which resolution was regularly adopted by the following vote:

Ayes: Councilmen: M. Adams, Arata, Heckendorf, Mellis, Merrill, and Mayor Marks  
 Noes: Councilmen: None  
 Absent: Councilmen: Annan

The City Manager thanked the Council on behalf of the city employees for the time off allowed and for the many favors during the past year.

DISCUSSION ON IMPROVING SYCAMORE AVENUE AT GRISWOLD AVENUE

The City Manager stated that he had been informed that the property which divided Sycamore Avenue at Griswold Avenue had been placed on the market at a price of about \$20,000. He stated that he could not recommend the purchase of this property at this price at this time.

Councilman Mellis reported that he understood that a committee of property owners was being organized to raise a portion of the cost. The Council indicated that it would be interested on some basis where there would be participation and expressed willingness to work with the adjoining property owners.

MEETING OF PLANNING COMMISSION ON PROPOSED ZONING ORDINANCE

The City Attorney reminded the Council of the Planning Commission meeting to be held December 23 at which time the proposed zoning ordinance would be discussed. It was pointed out that attendance by Council members would save time when the ordinance came up for Council consideration. Copies were made available to the members for study.

REPORT ON MEETING HELD BY PLANNING STAFF TO DISCUSS THE PRELIMINARY MASTER PLAN FOR MODESTO

The City Manager reported that a meeting had been held December 21 which had been attended by city officials, Council members, representatives of a number of local organization and officials of the City of Ceres, when the Director of Planning had reviewed the proposed master plan for the development of Modesto and the surrounding area. He stated that the Ceres officials had asked to be invited to all future meetings when the master plan was to be considered.

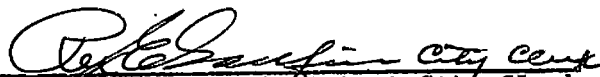
CITY MANAGER INTRODUCE HIS GUEST TO THE COUNCIL

City Manager Miller introduced his mother-in-law, Mrs. Wm. Prediger, who was visiting from near Dodge City, Kansas.

ADJOURNMENT

Councilman Arata moved, seconded by Councilman Mellis, and it was unanimously carried, that this meeting now in session adjourn. The meeting was adjourned at 10:30 P.M.

ATTEST: REX E. GAILFUS, CITY CLERK

By:   
Anne M. Collins, Assistant City Clerk