06/28/0

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE ~~06/21/05~~
AGENDA ITEM 9
WORK SESSION ITEM

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Nuclear Free Signs

At its June 14 worksession, the Council discussed the possible removal of the Nuclear Free signs that are posted at various locations in the City. As noted, an ordinance adopted in 1987 required the installation of such signs. Thus, if the signs are to be removed, the previous ordinance must be modified.

Attached for your consideration is an ordinance which both provides for the removal of the signs and also reaffirms the underlying objectives found in the original ordinance.

Jesús Armas
City Manager

Attachment

DRAFT

ORDINANCE NO._____

AN ORDINANCE OF THE HAYWARD CITY COUNCIL
REAFFIRMING ITS COMMITMENT TO REMAIN A
NUCLEAR FREE ZONE

THE CITY COUNCIL OF THE CITY OF HAYWARD does ordain as follows:

Section 1: FINDINGS. The City Council hereby finds that in September of 1987 Ordinance No. 87-024 was adopted thereby establishing a Nuclear Free Hayward. The Council further finds that the rationale for adopting, and the findings made in support of, such ordinance remain valid in today's environment.

Section 2: REAFFIRMATION. The City Council hereby reaffirms it commitment to keeping Hayward nuclear free.

Section 3: SECTION 9 of Ordinance 87-024 his hereby deleted. All remaining sections of the Ordinance shall remain in effect as an expression of the Council's above-stated commitment to remaining nuclear free.

Section 4: In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the_____ day of_____, 2005, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the____ day of _____, 2005, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

ACG

ORDINANCE NO. 87-024 C.S.

AN ORDINANCE ESTABLISHING NUCLEAR FREE HAYWARD

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

SECTION 1. NAME. This ordinance shall be known as "The Nuclear Free Hayward Ordinance."

SECTION 2. PURPOSE. The purpose of this Ordinance is to make the City of Hayward a nuclear-free zone and:

(a) To oppose the arms race by prohibiting work for nuclear weapons;

(b) To prohibit nuclear reactors;

(c) To minimize city contracts with and investments in the nuclear weapons industry; and

(d) To oppose the nuclear fuel cycle as a whole.

SECTION 3. FINDINGS. The City Council of the City of Hayward hereby finds and determines that:

(a) The nuclear arms race threatens the health, safety and economic well being of the citizens of this City;

(b) The production, use and threatened use of nuclear weapons is a clear and ever-present danger to the people of the City;

(c) The people of the City of Hayward have previously voted in favor of a statewide ballot measure which expresses the feelings of its private citizens and which encourages a nuclear weapons freeze between the United States and the Soviet Union;

(d) The use, storage or transportation of weapons-related radioactive nuclear materials or wastes within or through the City of Hayward poses serious health, safety and environmental risks to the residents of the City;

(e) The presence of nuclear weapons industry in this City would make Hayward the target of hostile military action or terrorism;

(f) The refusal of the City of Hayward to support or do business with nuclear weapons contractors may encourage those corporations to abandon their work on nuclear weapons in favor of work that contributes to the public welfare;

(g) The City's investments of its public funds in, and the granting of public contracts to private corporations engaged in the production of nuclear weapons can be construed as condoning, encouraging and supporting the nuclear arms race. Contracts with, or purchases from, nuclear weapons makers are not a responsible use of public funds;

(h) The funds, personnel and other resources presently committed to work for nuclear weapons are misdirected and should be redirected toward urgently needed human services such as job training, social services for children, the elderly and the disabled, shelter for the homeless, education, housing, health care, public transportations, emergency services and general public assistance;

(i) The investment and expenditure of public funds should be based upon the premise that such funds be used for the public welfare; and

(j) Uranium mines, refining facilities, transportation of radioactive materials, nuclear reactors and radioactive waste are parts of a "nuclear fuel cycle" integral to nuclear weapons production. The entire cycle threatens our health and safety as follows:

(i) Mining, refining and transportation of radioactive materials directly endangers the health of the workers involved;

(ii) Transportation of radioactive materials is inherently hazardous because of the risk of accidents releasing radioactivity into the environment;

(iii) Radiation is routinely released from all nuclear reactors, including reactors powering aircraft carriers and submarines, while accidents such as those at Three Mile Island and Chernobyl release still more; and

(iv) There is no safe means known for the disposal of nuclear waste.

SECTION 4. DEFINITIONS. As used in this ordinance, the following words shall have the following definitions:

(a) "City Funds" or "Public Funds" are those monies, grants and funds received and managed by the City of Hayward.

(b) "Nuclear Waste" is any material which is the by-product of any nuclear reaction or nuclear weapon production, except for the byproduct of applied nuclear medicine.

(c) "Nuclear Weapon" is any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei.

(d) "Person" is any person, private corporation, institution or other entity, which is within the jurisdiction of the City of Hayward.

(e) "Radioactive Material" is any material giving off, or potentially capable of giving off radiant energy in the form of particles or rays (such as alpha, beta and gamma rays) by the spontaneous disintegration of atomic nuclei, including accelerator-produced isotopes and byproduct material.

(f) "Transport or Transportation" is transportation by any means over passable roadways, navigable waterways, or in the air-space, that are within the jurisdiction of the City of Hayward.

SECTION 5. PROHIBITION OF WORK FOR NUCLEAR WEAPONS.

(a) Cessation of Present Activities. No person shall, within the City of Hayward, knowingly engage in work on the development, manufacture, production or assembly of nuclear weapons. This prohibition shall take effect two years after adoption of this Ordinance.

(b) Prohibition of Commencement of Work for Nuclear Weapons. No person who is not, as of the date this Ordinance is adopted, engaged in the development, manufacture, production or assembly of nuclear weapons, shall, within the City of Hayward, commence any such activities after the date this Ordinance is adopted.

(c) Exclusions. Nothing in this Section shall be construed to prohibit the following:

(i) Any activity not specifically described in this Section;

(ii) Any unclassified research, study, evaluation or teaching;

(iii) The research and application of nuclear medicine; and

(iv) Uses of radioactive material for smoke detectors, light-emitting watches and clocks, and other applications not related to the development of nuclear weapons.

SECTION 6. PROHIBITION OF NUCLEAR REACTORS.

(a) Cessation of Present Activities. No person shall, within the City of Hayward, operate or cause to be built a nuclear reactor. This prohibition will take affect as of the date this Ordinance is adopted.

(b) Exclusions.

(i) Any activity not specifically described in this Section;

(ii) Any research, study, evaluation, teaching or training activities not involving the actual operation of a nuclear reactor;

(iii) The operation of particle accelerators and related equipment; and

(iv) The construction and operation of experimental fusion reactors.

SECTION 7. NUCLEAR FREE CONTRACTS AND INVESTMENTS. The City of Hayward shall grant no awards or contracts for any purpose to, nor shall it purchase any goods or services directly from, nor shall it invest with, any person which is knowingly or intentionally engaged in the development or production of nuclear weapons. It will be the responsibility of any recipient of a City contract or award to certify by a notarized statement on a form approved by the City Manager that it is not knowingly or intentionally engaged in the above-defined activity. Notice of this certification requirement shall be included in all "Requests for Proposals" issued by the City of Hayward.

SECTION 8. TRANSPORTATION. The transportation of nuclear weapons in City of Hayward streets shall be prohibited.

SECTION 9. NOTICE OF NUCLEAR FREE ZONE. Every City road entering the City of Hayward which has a sign marking the City limits as of the date of the passage of this Ordinance shall be marked, with equal prominence, with a sign reading "NUCLEAR FREE ZONE, established by the City of Hayward 1987." These signs shall be posted no later than 120 days after the adoption of this Ordinance. Further the City must notify the Federal Government and other appropriate authorities that this Ordinance has been adopted within thirty days after the effective date of this ordinance.

SECTION 10. PROHIBITION ON USE OF CITY FUNDS AND PROPERTY FOR CIVIL DEFENSE AGAINST A NUCLEAR WAR. No City funds or property shall be appropriated or used for civil defense plans against a nuclear war or other preparations for nuclear war, including but not limited to those civil defense measures which address the physical or social after effects of a nuclear war.

SECTION 11. ENFORCEMENT. Each violation of this Ordinance shall, as a misdemeanor, be punishable by up to one year imprisonment and/or a fine of up to $5,000. Each day of violation shall be deemed a separate violation.

SECTION 12. SEVERABILITY. If any section, sub-section, paragraph, sentence or word of this Ordinance shall be held unconstitutional, the unconstitutionality of the part of the Ordinance shall not affect the other sections, sub-sections, paragraphs, sentences and words of this Ordinance, all of which are intended to be severable.

SECTION 13. EFFECTIVE DATE. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the first day of September 1987, by Mayor GIULIANI.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 15th day of September, 1987, by the following votes of members of said City Council.

AYES: COUNCILMEMBERS: BRADLEY, CAMPBELL, BRAS, SWEENEY, WARD
MAYOR: GIULIANI

NOES: COUNCILMEMBERS: JIMENEZ

ABSENT: COUNCILMEMBERS: NONE

APPROVED September 15, 1987

BY: Alex Giuliani
Mayor of the City of Hayward

ATTEST: Roland B. Weaver
City Clerk of the City of Hayward