CITY OF
HAYWARD
HEART OF THE BAY

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DATE: September 21, 2010

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Opposition to State Efforts to Usurp Cities' Authority in Local Government Matters and Attempts to Divert Local Revenue

RECOMMENDATION

That Council adopts the attached resolution opposing any State efforts to usurp local control of municipal affairs and authorizing the City Manager to take immediate action to express the City's strong opposition to any and all State legislative attempts to erode Hayward's ability to govern itself or manage its finances.

BACKGROUND AND DISCUSSION

There have been many attempts over the last few months and in past sessions by the California State Legislature to erode local control and interfere in the ability of Hayward and other cities in California to govern themselves and manage their finances. Through ERAF I and II, the State has taken over $90 million in Hayward General Fund revenue since 1993. Another $3.9 million has been taken since 2005 as a result of ERAF III. In addition, the State has taken $7.8 million in Hayward redevelopment funds, including $4.4 million in this year alone. This is in addition to multiple borrowings, the failure to reimburse for State-mandated programs and State raids upon transportation funds. Particularly egregious examples of recently proposed legislation include AB 155 (Mendoza) and AB 1955 (de la Torre). While neither bill passed, both required swift, aggressive action on the part of Hayward, other California cities, and the League of California Cities to prevent their passage.

AB 155 would have prevented a city from declaring bankruptcy despite the fact that the local governing board determined it prudent and necessary and would have required a city to appear before a State agency and seek the agency's oversight and approval before filing bankruptcy. AB 1955 (de la Torre) would have limited the compensation that cities, including charter cities, could pay their elected and appointed officials. As a particular affront to the authority of small and mid-sized cities to self-regulate, the de la Torre bill exempted larger California cities, such as San Francisco, Oakland, San Jose and San Diego, from its application.

Both bills are reactive and attempt to impose yet another layer of ineffective and unwise control on a local government's ability to manage its own affairs. In both cases, the matters and concerns that the bills attempted to address are well-governed by existing laws: state and federal bankruptcy laws in the case of AB 155 and the Brown Act and our own Charter in the case of AB 1955.

Further, there is a distinct difference in California law between general law cities and charter cities, with charter cities having much more autonomy according to the terms and conditions of their own locally defined and approved governing document, their charter. Hayward is a charter city. Any attempt by any other legislative body to erode, weaken, undermine, or override that Charter should be aggressively and swiftly crushed.

Given the tenuous condition of public financing at all levels and the gridlock and ineffective management of State finances in particular, attacks on local control and charter city autonomy seem to spring up within the California legislature when least expected: the situation requires constant vigilance and strong and immediate response from Hayward and other California cities when ill-advised bills are introduced in the Legislature. Often times, there is little notice to local government before action is needed, and the League of California Cities asks for letters and emails on same-day notice.

The attached resolution makes clear Council's position on these matters and authorizes the City Manager to take action as needed to express that position, where and when appropriate, to protect the City's Charter, governing autonomy, and finances from State or Federal attack. Council would be kept timely aware of any responses made by the City Manager and the reasons for such response. This delegation of authority to the City Manager is limited to those circumstances in which it is impracticable, based on timing, the urgency of the action needed and Council's schedule, to bring the matter to Council for its consideration.

FISCAL AND ECONOMIC IMPACT

There are no immediate negative or positive impacts of this resolution on the City's finances or the economic health of our community. Reacting swiftly and aggressively to State and Federal legislative attempts to usurp authority over municipal affairs as described herein could protect the City's Charter and finances.

Prepared and Recommended by: Fran David, City Manager

Fran David, City Manager

Attachments:

Attachment I Resolution Opposing State Efforts to Usurp Cities' Authority in Local Government Matters

HAYWARD CITY COUNCIL

RESOLUTION NO. 10-

Introduced by Council Member

A RESOLUTION IN OPPOSITION TO STATE EFFORTS TO USURP CITIES' AUTHORITY IN LOCAL GOVERNMENT MATTERS

WHEREAS, the City of Hayward is a charter city; and

WHEREAS, recent actions from the California State legislature have resulted, or could have resulted, in undermining and weakening the City's control over its municipal affairs; and

WHEREAS, legislative bills that could adversely impact the City's authority to govern itself have been proposed in recent State legislative sessions, in both the Assembly and the Senate, with little notice to impacted municipalities; and

WHEREAS, the California League of Cities frequently requests that cities provide immediate, same-day responses expressing opposition or support for bills that affect, or could affect, a local jurisdiction's finances or control over municipal affairs; and

WHEREAS, this same-day need to respond often makes it impossible to secure full, formal Council approval to send emails or letters expressing the City's position; and

WHEREAS, Hayward is the third largest city in Alameda County, making it desirable to have Hayward's position on record when the League of California Cities is managing state legislation on the behalf of California's cities.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward strongly opposes any attempt by the State or federal government to erode local control of municipal affairs or to weaken or undermine our Charter.

BE IT FURTHER RESOLVED that the City Council takes a strong position in opposition to any attempt to bring AB 155, AB 1955, or any similar legislation before the State Assembly or Senate in this or future legislative sessions.

BE IT FURTHER RESOLVED that the City Council takes a strong position in opposition to any State or Federal attempts to take, divert, borrow or otherwise interfere with the flow of local revenue to the City of Hayward, or its ability to manage such revenue.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to respond on the City's behalf, consistent with the positions expressed herein, to any State or Federal legislative or other attempt to erode our local governance structure; undermine the City's ability to govern according to our Charter and other applicable laws, rules, and regulations; or take, borrow, or divert our local revenue. This delegation of authority is limited to those circumstances in which it is impracticable, based on timing, the urgency of the action needed and Council's schedule, to bring the matter to Council for its consideration.

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:_____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward