

COMMITTEE SUBSTITUTE FOR RESOLUTION NO. 110602

Declining to place before the voters a proposed ordinance prohibiting the production of any components for nuclear weapons at 14500 Botts Road as proposed by a committee of petitioners.

WHEREAS, a committee of petitioners has submitted an initiative petition seeking the adoption of an ordinance or the presentation of the question of adoption of the ordinance before the voters; and

WHEREAS, the Council rejected adoption of such an ordinance by failing to pass Ordinance 110418 on June 16, 2011; and

WHEREAS, on June 24, 2011, the committee of petitioners demanded placement of the measure before the voters; and

WHEREAS, the United States Constitution, the Missouri Constitution, and the City Charter set forth certain requirements, standards and procedures that are applicable to an initiative petition, and

WHEREAS, the Missouri Supreme Court, the Missouri Court of Appeals and Missouri Circuit Courts have held that ordinances proposed through an initiative process must comply with constitutional and Charter requirements, standards and procedures, and must be facially constitutional or they may be kept from a ballot; and

WHEREAS, the ordinance proposed by the committee of petitioners is deficient in that it:

- Conflicts with the constitutional power of the federal government to provide for the national defense as specified in Article I, Section 8, of the United States Constitution granting Congress the power to provide for the common defense;
- Conflicts with the constitutional power of the President of the United States to make treaties and conduct foreign affairs as specified in Article II, Section 2, of the United States Constitution;
- Violates the supremacy clause of Article VI of the United States Constitution;
- Violates federal and state constitutional provisions prohibiting the impairment of contracts, including Article I, Section 10, of the United States Constitution prohibiting state laws impairing the obligations of contracts and Article 1, Section 13, of the Constitution of Missouri prohibiting laws impairing the obligations of contracts;
- Conflicts with federal legislation controlling the development of the nation's nuclear weapons;

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- Constitutes a thinly veiled illegal referendum on final and effective Council ordinances respecting land use, zoning, development and developer mandates that permit the production of components for nuclear weapons at 14500 Botts Road in violation of Sections 710 and 711 of the City Charter;
- Creates a new land use regulation which cannot alter the grandfathered status of the current use of the property;
- Enacts a land use regulation for a single property but fails to provide for the statutorily required hearings; and
- Expresses a statement of public policy relating to the use of new technologies at a single property which is an administrative matter not subject to the initiative petition process; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the initiative petition proposed by the committee of petitioners will not be placed before the voters because, on its face, the initiative petition violates the provisions of the United States and Missouri Constitutions stated above. Further, the Council finds that the initiative petition does not comply with requirements, standards and procedures set out in provisions of the United States and Missouri Constitutions, federal and Missouri law and the City Charter.

Section 2. That the above recitals are incorporated into this Committee Substitute for this Resolution by reference, as if set forth in their entirety herein.

Section 3. That the enumeration in this resolution of defects in the initiated ordinance set out in the initiative petition is not intended to be all inclusive or to limit challenges to the legality or constitutionality of the initiated ordinance.
