




Office of the City Manager

ACTION CALENDAR
July 18, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Sherry M. Kelly, Acting City Clerk

Subject: Adopt a Resolution placing an Advisory Measure calling for the
Impeachment of President Bush and Vice President Cheney on the
November 7, 2006 Ballot

RECOMMENDATION

That Council: 1) review the ballot title and analysis and revised ballot text as recommended by the City Council and prepared by the City Attorney and 2) adopt a Resolution placing an advisory measure on the November 7, 2006 ballot calling for the Impeachment of President Bush and Vice President Cheney.

FISCAL IMPACTS OF RECOMMENDATION

The cost of placing a measure on the ballot varies based on the length of the text. Each measure will cost approximately \$10,000. Funds to cover elections are included in the City Clerk Department budget for FY 2006 and FY 2007. Minimal administrative cost to implement measure if passed.

CURRENT SITUATION AND ITS EFFECTS

At its meeting of June 27, 2006 the City Council received a recommendation from the Peace and Justice Commission to place an advisory measure on the November ballot calling for the impeachment of President Bush and Vice President Bush. The Council directed the City Attorney to prepare the ballot title and analysis and to revise the language of the ballot text per their discussion. In order for this measure to appear on the November 7, 2006 ballot, the Council must adopt the enclosed Resolution, which includes the title, the revised text of the measure, and the City Attorney's analysis.

BACKGROUND

On April 25, 2006 the City Council approved a recommendation requesting the Peace and Justice Commission review placing an advisory measure on the November ballot calling for the impeachment of President Bush and Vice President Cheney. The Commission returned to Council on June 27, 2006 with draft ballot language approved by the Commission. At this meeting the City Council directed the City Attorney to prepare the ballot title and analysis and revised language for the ballot text which would call upon the United States House of Representatives to initiate proceedings for the impeachment and removal from office of President Bush and Vice President Cheney and call upon the California State Legislature to submit a Resolution in support of impeachment to the United States House of Representatives. The enclosed Resolution includes the ballot title and City Attorney's analysis and the revised ballot text.

CONTACT PERSON

Sherry M. Kelly, Acting City Clerk, 981-6900

Attachments:

1: Resolution

Exhibit A: Text of the Measure

Exhibit B: City Attorney's Analysis

RESOLUTION

SUBMITTING TO THE BERKELEY ELECTORATE AN ADVISORY MEASURE CALLING FOR THE IMPEACHMENT OF PRESIDENT BUSH AND VICE PRESIDENT CHENEY

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 7, 2006 General Municipal Election, an advisory measure calling for the Impeachment of President Bush and Vice President Cheney; and

WHEREAS, the Council has requested that the Alameda County Board of Supervisors consolidate the General Municipal Election with the Statewide General Election; and

WHEREAS, the Council desires to submit all measures to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED, that the Registrar of Voters of Alameda County is required to perform necessary services in connection with said election.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Berkeley.

BE IT FURTHER RESOLVED, that said proposed measure shall appear and be printed upon the ballots to be used at said election as follows:

CITY OF BERKELEY ADVISORY RESOLUTION	
Shall the City of Berkeley call upon the United States House of Representatives to initiate proceedings for the impeachment and removal from office of President George W. Bush and Vice President Richard B. Cheney and call upon the California State Legislature to submit a Resolution in support of impeachment to the United States House of Representatives? <u>Financial Implications:</u> Minimal	YES
	NO

BE IT FURTHER RESOLVED, that the text of the measure be as shown on Exhibit A and the City Attorney's Analysis be as shown on Exhibit B, attached hereto and made a part hereof.

TEXT OF ADVISORY RESOLUTION

CALLING FOR THE IMPEACHMENT OF PRESIDENT BUSH AND VICE PRESIDENT CHENEY

The People of the City of Berkeley do hereby resolve to adopt the following advisory measure:

Section 1 Title

This Advisory Measure shall be known and may be cited as the Berkeley Citizens' Measure to Protect the Constitution and Impeach President George W. Bush and Vice President Richard B. Cheney.

Section 2 Findings and Declarations

The People of the City of Berkeley find and declare as follows:

1. President George W. Bush and Vice President Richard B. Cheney have committed High Crimes and Misdemeanors, included those enumerated herein, that warrant their impeachment and removal from office under Article II of the Constitution of the United States, which provides that "the President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors."
2. They have violated the Constitutional rights of citizens, impaired the due and proper administration of justice and the conduct of lawful inquiries, violated laws governing agencies of the Executive Branch, and failed to take care that the laws were faithfully executed, in contravention of their Constitutionally prescribed duties and their Oaths of Office in that:
 - A. They have directed the National Security Agency and various other agencies to conduct electronic surveillance in violation of the Fourth Amendment to the Constitution of the United States, which prohibits "unreasonable searches and seizures," and in violation of the Foreign Intelligence Surveillance Act (FISA) and other statutes in which Congress has prescribed conditions for such surveillance. They have declined to seek or obtain judicial authorization for such surveillance, as required under FISA, with violators subject to criminal and civil penalties including imprisonment and fines. They have periodically reauthorized such surveillance without judicial review. They have subverted the Congress's ability to fulfill its Constitutional role of oversight over the Executive Branch by refusing to provide substantive reports to Congress required under FISA and other laws of the land.
 - B. They have detained citizens and non-citizens both inside and outside of the United States, without charges, without due process, and with little or no access to counsel or courts.

3. They have usurped unto the Executive Branch powers Constitutionally reserved for the Judicial Branch in contravention of basic Constitutional principles of the separation of powers between the Executive, Legislative, and Judicial branches of government in that:
 - A. They have caused electronic surveillance to be conducted upon United States citizens within the United States without informing the courts or seeking required authorization therefrom.
 - B. They have engaged in indefinite detentions, both within and outside of the United States, without permitting independent review of such detentions, even after the Supreme Court of the United States ruled that detainees were entitled to such review.
4. They have usurped unto the Executive Branch powers constitutionally reserved for the Legislative Branch in that:
 - A. In undertaking to invade and occupy Iraq, they misled the Congress and the People of the United States. They claimed, and the President asserted in the 2003 State of the Union address before a joint session of Congress that Iraq was attempting to purchase uranium for a nuclear weapon from Niger, even after being advised by the Director of the Central Intelligence Agency (CIA) that such claims were not credible. They claimed that the United States had incontrovertible proof that Iraq possessed weapons of mass destruction, even that the United States Government had knowledge of their exact locations — claims subsequently proven false. They claimed that certain mobile facilities in Iraq were for the purpose of manufacturing weapons of mass destruction, even after United States and British operatives had examined those facilities and declared that they could not be used for such purpose. These statements and others misled the Congress and the People of the United States, denying the Citizens and their elected representatives the opportunity to make informed choices, and thereby subverted democracy.
 - B. They have declared that the Executive Branch is not bound by the Detainee Treatment Act of 2005, which prohibits the cruel, inhuman, or degrading treatment of detainees; and on more than 750 occasions, President Bush has executed "Signing Statements" asserting the Executive's right to ignore provisions of Acts of Congress as his Administration sees fit, including provisions requiring the Executive to report its activities to Congress and provisions enacted specifically to prohibit activities the Bush Administration had previously undertaken.
5. They have violated Article VI of the Constitution of the United States, which provides that "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land" in that:
 - A. They have permitted the torture of detainees in violation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the Third and Fourth Geneva Conventions.

- B. They have refused the International Committee of the Red Cross access to detainees, in violation of the Geneva Conventions. They have denied access to detainees' lawyers and to their families, and have refused to say where detainees are being held.
6. In violation of federal statutes, they have caused to be published the identity of a CIA covert agent after that agent's husband published a newspaper article revealing that his official investigation had shown that claims Iraq was seeking to purchase uranium for nuclear weapons from Niger were not reliable.
 7. They have engaged in "extraordinary rendition," capturing persons and transporting them to countries where detainees are routinely deprived of due process, and where torture is known to be practiced.
 8. In all of this, George W. Bush and Richard B. Cheney have acted in a manner contrary to their trust as President and Vice President of the United States and subversive of Constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the People of the United States of America.
 9. For all these reasons, the People of Berkeley do hereby call upon the United States House of Representatives to initiate an investigation into High Crimes and Misdemeanors, including those listed herein; and upon finding that such allegations may be true, to submit Articles of Impeachment regarding President George W. Bush and Vice President Richard B. Cheney to the Senate of the United States.
 10. The People of Berkeley further call upon the Senate of the United States, upon finding that High Crimes and Misdemeanors were conducted by President George W. Bush and Vice President Richard B. Cheney, to convict them and remove them from office.
 11. The People of Berkeley further call upon the Legislature of the State of California to submit a Resolution in support of impeachment regarding President George W. Bush and Vice President Richard B. Cheney to the United States House of Representatives.
 12. Within 30 days of passage of this Measure, the City Manager should transmit to all members of the United States House of Representatives and all members of the California State Legislature a letter advising of this measure's passage by the voters, and shall include in such transmittal a copy of this measure in full.

CITY ATTORNEY'S ANALYSIS

CALLING FOR THE IMPEACHMENT OF PRESIDENT BUSH AND VICE PRESIDENT CHENEY

This is an advisory measure. The People of Berkeley would by adopting the measure:

1. Express their views that the President and Vice President of the United States have committed impeachable offenses;
2. Outline the impeachable offenses which warrant impeachment;
3. Call upon Congress to pursue impeachment;
4. Call upon the State legislature to support Congressional impeachment proceedings; and
5. Call upon the City Manager to advise members of Congress, the Senate and the State Legislature of adoption of the measure and transmit the measure to them.

Financial Implications: Minimal costs of transmitting the measure to federal and state legislators.