

**Peace and Justice Commission
Regular Meeting**

**North Berkeley Senior Center
March 3, 2003**

MINUTES

The meeting convened at 7:05 pm with Chairperson Anne Wagley, presiding.

ROLL CALL

Present: Roya Arasteh, Donald Brody, Leslieann Cachola, Elliot Cohen, Steven Freedkin, Nicholas Gonzalez-Yuen, Mary Heinze, John Lavine, Mark McDonald, Robert Rose, Thom Seaton, Michael Sherman, Anne Wagley, David Weinberg

Absent: Sandy Curtis

COMMENTS FROM THE PUBLIC

1. Jim Krupnick, Lawrence Berkeley National Laboratory (LBNL), regarding the molecular foundry.
2. Mark Alper, LBNL, regarding the molecular foundry.
3. Leuren Moret regarding the molecular foundry.
4. Roy Meisner, Berkeley Police Department, regarding peaceful demonstrations.
5. Gene Bernardi regarding the molecular foundry.
6. Pamela Shivola regarding the molecular foundry.

ACTION ON MINUTES

M/S/C (*Sherman, Lavine*) to approve the minutes from the special meeting of February 10, 2003
Ayes: Unanimous; **Absent:** Curtis.

PRESENTATIONS

Darren Zook, Professor, UC-Berkeley, on the topic of "Non-Defended Localities" as defined in the Geneva Convention.

LeRoy Blea, Department of Health and Human Services, on the pilot project to use HIV rapid testing for individuals at highest risk for HIV infection in Berkeley.

ACTIONS TAKEN

Waiver of Nuclear Free Berkeley Act

M/S/C (Cohen, Weinberg) HAVING EXAMINED THE THREE CRITERIA SET FORTH IN SECTION 12.90.070 OF THE BERKELEY MUNICIPAL CODE, WE FIND IT APPROPRIATE TO GRANT A WAIVER OF THE NUCLEAR-FREE BERKELEY ACT, FOR THE GRANT AGREEMENT FROM THE UNIVERSITY AIDS RESEARCH PROGRAM, COMMUNITY COLLABORATIVE AWARDS FOR FUNDS IN THE AMOUNT OF \$40,000 FOR THE PERIOD NOVEMBER 1, 2003 TO OCTOBER 31, 2005 FOR A PILOT OUTCOMES EVALUATION OF HIV RAPID TESTING FOR INDIVIDUALS AT HIGHEST RISK FOR HIV INFECTION IN BERKELEY; AND APPROVING A WAIVER OF SECTION 12.90.070 OF THE BERKELEY MUNICIPAL CODE

WHEREAS, HIV rapid testing, providing results in just 20 minutes, has been found to be safe and effective by the Federal Drug Administration (FDA); and

WHEREAS, HIV rapid testing has the potential to link more HIV positive individuals to medical care earlier in their infection; and

WHEREAS, HIV rapid testing has the potential to decrease the spread of new HIV infections; and

WHEREAS, an evaluation of rapid testing versus standard testing would also inform the City of the effectiveness of its baseline HIV testing services; and

WHEREAS, the City should seek outside funding wherever possible to support health care services for preventing new HIV infections; and

WHEREAS, entering this agreement conforms to the intent and purposes of the Nuclear Free Berkeley Act in that funding health care services is a purpose specifically encouraged by Section 12.90.030 of the Act; and

WHEREAS, there are no alternative goods or services substantially meeting the required specifications of this proposed contract for an FDA approved rapid HIV testing; and

WHEREAS, in absence of alternative goods or supplies that meet the required specification it is impossible to determine quantifiable additional cost resulting from use of such alternatives, especially in light of the fact that this is a grant of funds to the City, rather than an expenditure by the City; and

WHEREAS, no reasonable alternative exists for the provision of the services delivered as a result of this grant from the University of California at San Francisco and the City.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley approves a waiver of the section 12.90.070 A of the Nuclear Free Berkeley Act to accept the grant

agreement from the University AIDS Research Program, Community Collaborative Awards for funds in the amount of \$40,000 for the period November 1, 2003 to October 31, 2005 for a pilot outcomes evaluation of HIV rapid testing for individuals at highest risk for HIV infection in Berkeley. **Ayes:** Unanimous; **Absent:** Curtis.

Proposed Construction of Molecular Foundry

M/S/C (McDonald, Sherman) WHEREAS, it was a finding of the Berkeley City Council when the Peace and Justice Commission was establishment that the present threat of nuclear or biological holocaust is not peace, but a condition of war against all humanity (*BMC 3.68.010[F]*); and

WHEREAS, it is a function of the Peace and Justice Commission to advise the Council on all matters relating to the City of Berkeley's role in issues of peace and justice, including, but limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money spent on war and preparation for war is spent on fulfilling human needs and the promotion of peace (*BMC 3.68.070[A]*); and

WHEREAS, the Berkeley City Council passed a motion on January 14, 2003 requesting that Lawrence Berkeley National Laboratory (LBNL) extend the public comment period to February 7, 2003, and hold a public meeting inviting the neighbors and the community for purposes of making a presentation on the project and allowing for substantial time for public comments and questions about the proposed construction and operation of a six-story molecular foundry complex adjacent to Strawberry Canyon; and

WHEREAS, LBNL did extend the period for public comment only to February 5, 2003 and declared that a public meeting was neither required nor needed and that there was not sufficient time to hold a public meeting because of scheduled meetings with the Committee for Grounds and Buildings and the University of California Regents later in that month and in early February; and

WHEREAS, LBNL is now stating that the date for the meeting with the Grounds and Buildings Committee has been postponed until April 17, 2003 and the meeting with the University of California Regents has been postponed until May 15, 2003 allowing ample time for the requested public meeting; and

WHEREAS, in a letter to LBNL Director Charles V. Shank, Mayor Tom Bates addressed the importance of good communication between the LBNL and the community as the basis of a good working relationship, and offered to sponsor a public meeting regarding the molecular foundry; and

WHEREAS, the location of the proposed molecular foundry is closely surrounded by many areas and facilities used daily by the public, is immediately adjacent to the active Hayward seismic fault, and is also a high risk area for wildfires, thus it is imperative that any potential risk from

routine operations or accidents be reviewed carefully by the public and their representatives, and not just by proponents of the project; and

WHEREAS, according to the National Science Foundation, nanotechnology could assist in the development of: (a) small nuclear weapons that are more likely to be used than their much larger counterparts; (b) more efficient storage, dispersal, and transport of chemical and biological agents into the bodies and cells of humans, animals and plants; (c) less operationally difficult biological warfare; (d) genetic markers that could target an ethnic group or an individual; (e) new types of nuclear weapons; it is therefore reasonable and just for Berkeley citizens and their representatives to be provided with adequate information on the planned operations of the molecular foundry, as nuclear weapons work has been historically opposed by the Berkeley community and would be in violation of the City's Nuclear Free Act, which could seriously affect the City of Berkeley's relations with LBNL and the University of California, which manages the lab for the United States Department of Energy (*Senate Armed-Services Committee Report 107-151 Accompanying S. 2514*).

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council directs the City Manager to address a letter to Lab Director Charles V. Shank and our elected Congressional and Senatorial representatives strongly urging that LBNL make use of the additional time provided by the postponed meetings with University of California administrators to schedule a public meeting regarding the construction and operation of the molecular foundry.

BE IT FURTHER RESOLVED, that the Berkeley City Council requests additional time for public comment after the proposed public meeting. **Ayes:** Arasteh, Brody, Cachola, Cohen, Freedkin, Gonzalez-Yuen, Lavine, McDonald, Rose, Sherman, Wagley; **Noes:** Heinze, Seaton, Weinberg; **Absent:** Curtis.

NEXT MEETING

The next regular meeting will be on Monday, April 7, 2003 at 7:00 pm at the North Berkeley Senior Center.

The meeting was adjourned at 10:06 pm.

Respectfully submitted

Manuel Hector Jr., Secretary
Peace and Justice Commission