

MINUTES

The meeting convened at 7:05 pm with Chairperson Steve Freedkin presiding.

ROLL CALL

Present: Patricia Beltran, Diana Bohn, Donald Brody, Elliot Cohen, Steve Freedkin, Elisabeth Kashner, Rita Maran, Mark McDonald, Thom Seaton, Michael Sherman, PhoeBe ANNE (sorgen), Anne Wagley, Jessica Weddle, Megan Winkelman, Jonathan Wornick

Absent: None

COMMENTS FROM THE PUBLIC

1. Anthony Chavez, Peoples Institute for Survival & Betrayal, regarding the United Nations investigation of Federal response to Hurricane Katrina.
2. Mike Masley, U.S. Artist General, regarding Berkeley.
3. Ann Fagan Ginger, Meiklejohn Civil Liberties Institute, regarding National Guard and Downing Street memo.
4. Corrine Goldstick, Code Pink: Women for Peace, regarding the California National Guard Resolution.
5. Gene Bernardi regarding the National Guard and Bevatron.

ACTION ON MINUTES

M/S/C (*sorgen, Weddle*) to approve the minutes from the regular meeting of July 11, 2005.
Ayes: Cohen, Freedkin, Kashner, McDonald, Seaton, Sherman, sorgen, Wagley, Weddle, Wornick; **Noes:** None; **Abstain:** Beltrain, Bohn, Brody, Litman, Winkelman; **Absent:** None.

Commissioners Beltran, Bohn, Brody, Litman, and Winkelman abstained because they were not present for the July meeting.

ACTIONS TAKEN

Bevatron Facility

M/S/C (*McDonald, sorgen*) the Peace and Justice Commission recommends that the City Council adopt a Resolution (ATTACHMENT A) requesting that the Department of Energy, the Lawrence Berkeley National Laboratory (LBNL) and their managing agency, the University of California, continue with their original plan to preserve the Bevatron Facility as a place of merit on the National Register of Historic Places for the benefit of future interested individuals and students of science, history and architecture; and that the City Council request that the \$85 million budgeted for the demolition of the Bevatron be mostly redirected to the decontamination of toxic underground plumes at LBNL as promised with enough spared to complete the

conversion of the accelerator facility for safe public access. **Ayes:** Beltran, Bohn, Brody, Cohen, Kashner, Litman, McDonald, Seaton, Sherman, sorgen, Wagley, Weddle, Winkelman; **Noes:** None; **Abstain:** Freedkin, Wornick; **Absent:** None.

Commissioner Freedkin abstained because, while he personally supports the action called for in the Resolution, the Resolution as written does not address peace or social justice issues as defined in the Ordinance that created the Peace and Justice Commission, and therefore is not within the purview of this Commission as written.

Commissioner Wornick abstained for the same reason as Commissioner Freedkin.

California National Guard

M/S/C (Sherman, Litman) the Peace and Justice Commission recommends that the City Council adopt the Resolution (ATTACHMENT B) placed on the Council agenda for Tuesday, September 13, 2005 by Mayor Tom Bates and Councilmembers Kriss Worthington and Max Anderson calling for the removal of California's National Guard from Iraq. **Ayes:** Beltran, Bohn, Brody, Freedkin, Litman, McDonald, Sherman, Wagley, Weddle, Winkelman; **Noes:** Seaton, Wornick; **Abstain:** Cohen, Kashner, sorgen; **Absent:** None.

Commissioner Cohen abstained for the following reasons: I do not support and I am not proud that united States (U.S.) troops have contaminated the environment by using depleted uranium munitions which will cause death and suffering to children yet unborn and which therefore constitute a war crime and violate the Nuremberg principles by failing to distinguish civilians from soldiers or persons engaged in military activities. I do not support and I am not proud of the fact that U.S. troops engaged in an illegal and unconstitutional war based on false pretenses that Iraq possessed weapons of mass destruction. I do not support and I am not proud of the fact that U.S. troops violated international law by abusing prisoners at Abu Garia prison. I do not support and I am not proud of the role that, while engaging in this illegal and unconstitutional war, U.S. troops have murdered, maimed and brought suffering to tens of thousands of civilians including defenseless women and children. Nor can I support those who in the name of expediency would seek to minimize or justify such conduct can be somehow overlooked because they were just following orders. International law, the U.S. military code of justice, and common decency all require that soldiers refuse to follow illegal orders that violate the rules of war. I cannot support and am not proud to learn that this excuse, known legally as the Nuremberg defense, which International Tribunals ruled Nazi's could not use to defend against crimes against humanity is being offered here in support of passing a resolution that will bear the name of the City I love. Indeed, I think any commissioner that supported this language should reconsider, and ask to modify the resolution. For these reasons, although I fully support the withdrawal of troops from Iraq, I cannot vote for the language contained in this particular resolution.

Commissioner Kashner abstained because she believes the arguments contained therein will fail to convince Governor Schwarzenegger of the necessity of recalling the California National Guard from Iraq.

Commissioner sorgen abstained from the vote for the same reasons as Commissioner Cohen.

Substitute Motion:

M/S/F (*Cohen, McDonald*) the Peace and Justice Commission recommends that the City Council adopt a Resolution calling upon the Governor and our State Senate and Legislature leaders to demand the return of the California National Guard; and that copies of this Resolution be sent to Governor Schwarzenegger, Assembly Speaker Fabian Nunez, Senator Pro Tem Don Perata and California Congressional Delegation members Lynn C Woolsey, George Miller, Nancy Pelosi, Barbara Lee, Ellen O. Tauscher, Richard Pombo, Tom Lantos, Pete Stark, Anna Eshoo, Mike Honda, and Zoe Lofgren. **Ayes:** Beltran, Cohen, Freedkin, Kashner, sorgen, Wagley; **Noes:** Bohn, Brody, Litman, McDonald, Seaton, Sherman, Weddle, Winkelman, Wornick; **Abstain:** None; **Absent:** None.

M/S/F (*Cohen, sorgen*) the Peace and Justice Commission recommends that the City Council approve the Resolution placed on the City Council agenda for Tuesday, September 13, 2005 by Mayor Tom Bates and Councilmembers Kriss Worthington and Max Anderson calling for the removal of the California National Guard from Iraq without the first WHEREAS clause of that Resolution. **Ayes:** Cohen, sorgen; **Noes:** Beltran, Bohn, Brody, Freedkin, Kashner, Seaton, Sherman, Wagley, Weddle, Winkelman; **Abstain:** Litman, McDonald, Wornick; **Absent:** None.

Commissioner Litman abstained because, though she deplors the violations at Aru Graib, the use of uranium, and the suffering of civilians, she wants to support the City Council's Resolution on the National Guard as it now stands because it is an important and well thought out statement of policy.

Commissioner McDonald abstained because he is not sure that he understands the motion.

Commissioner Wornick abstained because he does not support the Resolution.

Downing Street Memo

M/S/C (*Cohen, McDonald*) the Peace and Justice Commission recommends that the Berkeley City Council adopt a Resolution (ATTACHMENT C) calling on the City Council to direct the City Manager to send the attached letter (EXHIBIT A) urging prompt answers to the questions raised by the Downing Street memo and related information as per House Resolution No. 375, along with a copy of the Council Resolution on this matter, to President Bush; and that copies be sent to Representatives John Conyers, Jr., Barbara Lee and Tom Lantos, and Senators Barbara Boxer and Dianne Feinstein. **Ayes:** Unanimous; **Absent:** None.

Concert for Peace

M/S/C (*Sherman, sorgen*) the Peace and Justice Commission recommends that the Berkeley City Council adopt a Resolution (ATTACHMENT D) endorsing the Concert for Peace to celebrate the United Nations' 60th Anniversary and the 100th Anniversary of Dag Hammarskjold's birth to be held on October 23, 2005 in the Paramount Theatre at 7:00 p.m. **Ayes:** Unanimous; **Absent:** None.

Death Penalty

M/S/C (*Freedkin, Brody*) the Peace and Justice Commission recommends that the City Council vote to join 'Cities Against the Death Penalty'; to decorate a monument, building, or other site to

symbolize its support from September 28 to November 30, 2005 to be determined by the city manager's office and the mayor's office; designate the Peace and Justice Commission as the 'reference' for the initiatives of the World Campaign as indicated in the bullet points from 'Cities Against the Death Penalty'; and pursue any other points on that bullet list it considers appropriate.

FISCAL IMPLICATIONS: The cost of this measure would be the costs of any actions the city manager and the mayor decide to take pursuant to this resolution. **Ayes:** Beltran, Bohn, Brody, Cohen, Freedkin, Kashner, Litman, McDonald, Seaton, Sorgen, Wagley, Weddle, Winkelman; **Noes:** Wornick; **Abstain:** Sherman; **Absent:** None.

Commissioner Sherman abstained because he feels torn about the death penalty and might support its use if, for example, someone were to murder a close family member.

NEXT MEETING

The next regular meeting will be on Monday, October 17, 2005 at 7:00 p.m. in the North Berkeley Senior Center.

The meeting was adjourned at 9:55 p.m.

Respectfully Submitted,

Tasha Tervalon, Substitute Secretary
Peace and Justice Commission

ATTACHMENT A

Bevatron Facility

The Bevatron, a huge nuclear accelerator apparatus and the distinctive building that houses it, were constructed in 1954 at a huge cost to taxpayers. The facility should be saved from the wrecking ball and preserved for the benefit of future science students and historians. Preserving the world famous Bevatron also protects Berkeley citizens from numerous avenues of exposure to large amounts of radioactive and hazardous substances that will be released into the air and creeks if demolished.

Lawrence Berkeley National Laboratory (LBNL) requested and received in 1995 an eligibility status to the National Register of Historic Places. Four physicists were awarded Nobel Prizes for their work at the facility, which was continuously upgraded so as to continue contributing valuable research to medicine, cosmic ray experiments and radiation therapy for cancer treatment. Experiments ceased at the Bevatron in 1993.

The Bevatron's experiment process utilized numerous hazardous substances such as mercury, asbestos, lead and others. The actual operation of the accelerator induced radioactive elements of many types deep inside the walls and shielding blocks. Most of these hazardous elements would remain relatively harmless undisturbed inside the structure which would be in accordance with the new "decay in place" philosophy advocated by leading environmental organizations.

Extensive study of the geology and hydrology of LBNL and the Bevatron site itself has shown an extensive web of interconnecting feeds into all the major creeks in Berkeley. Demolishing a project of this size with the release of this amount of toxic and radioactive substances demands serious study and public consideration as many of the affected creeks are now day lighted and openly flow through public and residential areas.

The LBNL facility, including the Bevatron site, is laced with underground plumes of many types of hazardous and radioactive substances which the Department of Energy and Laboratory officials have promised to clean up as soon as funding can be secured. Some of these plumes are already leaching into Berkeley's creeks and are threatening the sub-surface water systems, which are the emergency reserve water for Berkeley inhabitants in the event of a loss of supply from our prime sources. The more these plumes spread the more costly they will be to clean up.

LBNL has acknowledged that with all the recent and current construction underway, there is no replacement project planned for the Bevatron site. It is disingenuous for Lab officials to delay promised toxic plume clean-ups for lack of funding and then spend \$85 million on a low priority and dangerous demolition of a facility of historic and architectural interest to many. LBNL must think so also as they included the Bevatron's design on their logo.

Bevatron Preservation Resolution

WHEREAS, it is the function of the Peace and Justice Commission to help create citizen awareness around issues of social justice and develop educational programs for the implementation of the Council (BMC 3.68.070. B), and the Nuclear Free Berkeley Act, BMC Section 12.90.80 E states “The City of Berkeley...shall assist and promote educational activities including but not limited to curriculum in all public schools and adult education programs, to advance public awareness and understanding of work for nuclear weapons and related matters as addressed in this Act”; and

WHEREAS, the Bevatron, an accelerator built in 1954 at the Lawrence Berkeley National Laboratory (LBNL), played a critical role in the nation’s scientific research efforts which resulted in four Nobel prizes and has historic and educational value for people involved in science, history and architecture; and

WHEREAS, the complex and unique machinery that remain represent the majority of the accelerator, is accessible, in good condition and would be an excellent teaching aid and field trip for students of science, physics, etc.; and

WHEREAS, the large circular structure with a conical roof that houses the Bevatron is also unique and worthy of preservation; and

WHEREAS, the many years of accelerator activity induced significant amounts of radioactive materials deep inside the walls, ground and structural elements and these together with many hazardous and toxic substances also buried in the structure would be released during deconstruction and hauling and would best be handled by being allowed to decay in place as recommended by leading environmental experts; and

WHEREAS, toxics, especially radioactive materials, are very hard to dispose of and this disposition will impact yet another community in addition to our own; and

WHEREAS, in 1995, LBNL requested and received eligibility status to the National Register of Historic Places for the Bevatron facility from the Office of Historic Preservation, State of California; and

WHEREAS, the complex geology and hydrology of the Bevatron site require a comprehensive and public analysis of the impact of the demolition upon Berkeley’s creeks, air, soil, and emergency water systems; and

WHEREAS, LBNL has promised to clean up other hazardous and radioactive plumes on its site when funding was available; and

WHEREAS, the Department of Energy has budgeted \$85 million for demolishing the Bevatron even though there is no need or plans for a replacement project.

NOW THEREFORE BE IT RESOLVED, that the Council of the City of Berkeley requests that the Department of Energy, the Lawrence Berkeley National Laboratory and their managing agency, the University of California, continue with their original plan to preserve the Bevatron Facility as a place of merit on the National Register of Historic Places for the benefit of future interested individuals and students of science, history and architecture.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley requests that the \$85 million budgeted for the demolition of the Bevatron be mostly redirected to the decontamination of toxic underground plumes at LBNL as promised with enough spared to complete the conversion of the accelerator facility for safe public access.

ATTACHMENT B

California National Guard and the War in Iraq

CALLING UPON THE GOVERNOR OF CALIFORNIA TO TAKE IMMEDIATE STEPS TO WITHDRAW CALIFORNIA NATIONAL GUARD TROOPS FROM IRAQ NOW

WHEREAS, the Berkeley City Council strongly supports the women and men serving in the United States Armed Forces in Iraq and recognizes the sacrifices that each of them is making; and

WHEREAS, in October 2002 the United States Congress adopted a Joint Resolution to authorize the use of United States Armed Forces against Iraq, relying on statements that were untrue, when in fact the United States was not threatened with attack by Iraq, Iraq had no weapons of mass destruction and Saddam Hussein played no role in the 9/11 attacks; and

WHEREAS, the majority of Americans would like to see a withdrawal of United States troops from Iraq but there is, to date, no exit strategy; and

WHEREAS, the costs of the call-up of California National Guard members for deployment in Iraq have been significant, as determined in lost lives, combat injuries, psychic trauma, disruption of family life, financial hardship for individuals, families, and businesses, interruption of careers, and damage to the fabric of civic life in many California communities; and

WHEREAS, these are costs which would be suffered willingly were there a threat to our nation, but which are not tolerable where there is none; and

WHEREAS, Californians have joined the National Guard thinking that they would be serving their neighbors by helping with California-based emergencies, unless there was a danger to America requiring transfer to active duty; and

WHEREAS, stop-loss orders violate the mutual understanding between Californians in the Guard and the state and nation they agreed to serve; and

WHEREAS, there is reason to believe that the federalization and deployment of National Guard members has rendered the remaining National Guard force unable to carry out its state activities effectively; and

WHEREAS, the United States Constitution provides that Congress shall have the power to “provide for calling forth the Militia to execute the laws of the Union, to suppress insurrections and repel invasions,” and the California State Assembly, the California State Senate, and the Governor of California to direct the training and arming of members of the California National Guard for defense of the State; and

WHEREAS, since 1986 the President and Congress have had nearly total control over state militias, including the California National Guard.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley calls upon the Governor of California to insure that the President and Congress take immediate steps to withdraw California National Guard troops from Iraq as soon as possible.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley asks California's Congressional Delegation to urge Congress to restore the balance between the federal government and the states vis-à-vis the National Guard by limiting federal control to cases where there is an insurrection or a declaration of war under the United States Constitution.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley sends a copy of this Resolution to Governor Schwarzenegger, President Bush, each member of the California Congressional Delegation, and the President Pro Tempore of the California Senate.

ATTACHMENT C

The Downing Street Memo

WHEREAS, Berkeley Municipal Code Section 3.68.070 C mandates the Peace and Justice Commission help the Berkeley City Council to develop proposals for actions in the furtherance of peace and social justice; and

WHEREAS, no weapons of mass destruction have been discovered in Iraq, causing many to question the basis upon which the Bush Administration went to war against Iraq without a declaration of war by Congress; and

WHEREAS, a document known as the Downing Street Memo, uncovered by the London Times, inspired Congressman John Conyers, Jr. to post a letter on his web site for signature, and after 560,000 people signed, he turned the letters over to the President urging a prompt response to the questions raised by the documents; and

WHEREAS, the President has of yet as not answered the questions raised by the letters; and

WHEREAS, the Berkeley City Council supports the Resolution of Inquiry (H Res 375) by our Representative Barbara Lee, joined by over 50 co-sponsors, requesting the President and directing the Secretary of State to transmit to the House of Representatives all information in their possession relating to communication with officials of the United Kingdom between January 1, 2002, and October 16, 2002, relating to policy with respect to Iraq; and

WHEREAS, a resolution by the Berkeley City Council urging prompt answers to the questions raised by the Downing Street memo and related information can assist the campaign to force President Bush to answer for the war in Iraq against which the Berkeley City Council twice unanimously passed resolutions.

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council directs the City Manager to send the attached letter (*EXHIBIT A*) urging prompt answers to the questions raised by the Downing Street memo and related information as per H Res 375, along with a copy of the Council Resolution on this matter, to President Bush.

BE IT FURTHER RESOLVED, that copies be sent to Representatives John Conyers, Jr., Barbara Lee and Tom Lantos, and Senators Barbara Boxer and Dianne Feinstein.

EXHIBIT A

[*Insert date*]

The Honorable George W. Bush
President of the United States of America
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20005

Dear Mr. President:

On [*insert date of Council meeting*], the Berkeley City Council passed a resolution regarding our concern over disclosures of a Downing Street Memo in the London Times, comprising the minutes of a meeting of Prime Minister Tony Blair and his top advisers. These minutes indicate that the United States (U.S.) and Great Britain agreed, by the summer of 2002, to attack Iraq, well before the invasion and before you even sought Congressional authority to engage in military action, and that U.S. officials were deliberately manipulating intelligence to justify the war.

Among other things, the British government document quotes a high-ranking British official as stating that by July 2002, Bush had made up his mind to take military action. Yet, a month later, you stated you were still willing to "look at all options" and that there was "no timetable" for war. Secretary of Defense, Donald Rumsfeld, flatly stated, "[t] he president has made no such determination that we should go to war with Iraq."

In addition, the origins of the false contention that Iraq had weapons of mass destruction remain a serious and lingering question about the lead up to the war. There is an ongoing debate about whether this was the result of a "massive intelligence failure," in other words a mistake, or the result of intentional and deliberate manipulation of intelligence to justify the case for war. The memo appears to resolve that debate as well, quoting the head of British intelligence as indicating that in the United States "the intelligence and facts were being fixed around the policy."

As a result of these concerns, we would ask that you respond to the following questions:

- 1) Do you or anyone in your administration dispute the accuracy of the leaked document?
- 2) Were arrangements being made, including the recruitment of allies, before you sought Congressional authorization to go to war? Did you or anyone in your Administration obtain Britain's commitment to invade prior to this time?
- 3) Was there an effort to create an ultimatum about weapons inspectors in order to help with the justification for the war as the minutes indicate?
- 4) At what point in time did you and Prime Minister Blair first agree it was necessary to invade Iraq?

- 5) Was there a coordinated effort with the U.S. intelligence community and/or British officials to "fix" the intelligence and facts around the policy as the leaked document states?

These are the same questions 89 Members of Congress, led by Rep. John Conyers, Jr., submitted to you on May 5, 2005. As citizens and taxpayers, we believe it is imperative that our people be able to trust our government and our commander in chief when you make representations and statements regarding our nation engaging in war. As a result, we would ask that you publicly respond to these questions as promptly as possible.

Furthermore, recently our elected member of the House of Representatives, Barbara Lee, has introduced a resolution requesting you transmit to the House of Representatives all documents in the possession of the Secretary of State relating to communications with officials of the United Kingdom from January 1, 2002 to October 16, 2002, relating to the policy of the United States with respect to Iraq.

The City of Berkeley wishes to support the efforts of both Representative Conyers and Representative Lee in asking you to turn over the documents to the House and answer the above questions.

We await what we hope is your prompt attention to this matter.

Sincerely,

ATTACHMENT D

The Concert for Peace

WHEREAS, Berkeley Municipal Code Section 3.68070, which established the Peace and Justice Commission, states that the Commission shall "(A) Advise the Berkeley City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to support for human rights and self-determination throughout the world;...[and] (C) Help develop proposals for the City Council in furtherance of the goals of peace and justice..." and

WHEREAS, the community of St. Joseph the Worker Church performed a Concert for Peace on September 12, 2004 in memory of Father William O'Donnell, in coordination with the church's 125th anniversary; and

WHEREAS, the cultural impact of last year's Concert for Peace furthered the interest of the City of Berkeley in promoting peace and justice, by means of a program reflective of free expression and other forms of human rights presented through musical excellence; and

WHEREAS, the United Nations has designated September 21st, annually, as the International Day of Peace; and

WHEREAS, the City of Berkeley has a long-standing tradition of endorsing and supporting cultural activities that promote the causes of peace, human rights, and social justice.

NOW THEREFORE, BE IT RESOLVED that Council of the City of Berkeley endorses the Concert for Peace to celebrate the United Nations' 60th Anniversary and the 100th Anniversary of Dag Hammarskjold's birth to be held on October 23, 2005 in the Paramount Theatre at 7:00 p.m.