

## MINUTES

The meeting convened at 7:02 pm with Chairperson Steve Freedkin presiding.

### ROLL CALL

Present: Diana Bohn, Donald Brody, Elliot Cohen, Steve Freedkin, Elisabeth Kashner, Mark McDonald, Bob Meola, Michael Sherman, Thom Seaton, PhoeBe ANNE (sorgen), Anne Wagley, Megan Winkelman,

Absent: Jane Litman

LOA: Jonathan Wornick

### COMMENTS FROM THE PUBLIC

1. Linda Komendant, Berkeley-Sakai Association, regarding the sister city program.
2. Abraham Kneisley, Constitution Summer, regarding impeachment referendum.
3. Geoffrey King, Constitution Summer, regarding the impeachment ballot initiative.

### ACTION ON MINUTES

**M/S/C** (*Meola, Winkelman*) to approve the minutes from the regular meeting of May 1, 2006.  
**Ayes:** Unanimous; **Absent:** Litman, sorgen.

### ACTIONS TAKEN

#### Order of Agenda

**M/S/C** (*Cohen, McDonald*) to consider the Action Items in the following order:

1. Draft Ballot Referendum – Agenda Item No. 6
2. Request for Waiver of Nuclear Free Berkeley Act – Agenda Item No. 9
3. Fifth Annual Peace Lantern Ceremony - Agenda Item No. 7
4. Sweat-Free Berkeley Campaign - Agenda Item No. 8
5. Commission Procedures and Rules - Agenda Item No. 5

**Ayes:** Bohn, Brody, Cohen, Kashner, McDonald, Meola, Seaton, Sherman, Wagley, Winkelman;  
**Noes:** Freedkin; **Absent:** Litman, sorgen.

#### Draft Ballot Referendum: Impeachment of President & Vice President

**M/S/C** (*Freedkin, Wagley*) to approve the referendum (Attachment 1) calling for impeachment of President George W. Bush and Vice President Richard B. Cheney, and to recommend that the City Council place it on the November ballot. **Ayes:** Bohn, Brody, Cohen, Freedkin, Kashner, McDonald, Meola, Sherman, sorgen, Wagley, Winkelman; **Noes:** None; **Abstain:** Seaton; **Absent:** Litman.

Commissioner Seaton abstained from the vote for the following reason: “*While I am troubled by certain conduct such as indefinite detention without independent review, I believe that Congress*

*will be mired in pro- and anti- impeachment debates for every future administration. I also believe misleading the country is not an impeachable offense.”*

#### **Request for Waiver of Nuclear Free Berkeley Act**

**M/S/F** (*Cohen, Brody*) move to table the motion for a waiver of the Nuclear Free Berkeley Act (NFBA). **Ayes:** Brody, Cohen; **Noes:** Bohn, Freedkin, McDonald, Meola, Sherman, sorgen, Wagley, Winkelman; **Absent:** Kashner, Litman, Seaton.

**M/S/F** (*Wagley, sorgen*) 1) the Peace and Justice Commission (PJC) recommends a waiver; however, the PJC finds, that based on the evidence presented, this contract does not fall under the NFBA for nuclear weapons work. The PJC therefore requests a complete explanation of how this contract fits under the NFBA; 2) The PJC furthermore asks that future requests for waivers under the NFBA contain an explanation from the City Attorney of the contracts relevance to the NFBA; and 3) The PJC furthermore requests that future waiver requests reach the Commission in a timely manner not eleven months after the contract in order to give a thorough analysis under the NFBA. **Ayes:** Bohn, sorgen, Wagley, Winkelman; **Noes:** Brody, Freedkin; **Abstain:** Cohen, McDonald, Meola, Sherman; **Absent:** Kashner, Litman, Seaton.

Commissioner Cohen abstained from the vote for the following reason: *“First, the contract may be subject to the NFBA but we have idea why this was referred to us. More to the point, any recommendation on this contract by the PJC may make in this matter is pointless because the contract has already been in effect for eleven months so how we vote no will have no actual effect on the matter.”*

Commissioner McDonald abstained from the vote for the following reason: *“I need the information on why this contract is applicable under the NFBA so as to do my job and best represent the citizens of Berkeley’s well being.”*

Commissioner Meola abstained from the vote for the following reason: *“There was not enough accurate and appropriate information provided for me to make an informed decision. There was no clear evidence that the lab contract comes under the Nuclear Free Berkeley Act. If it dies, it was not clear that there are no alternatives.”*

Commissioner Sherman abstained from the vote for the following reason: *“I don’t understand why this resolution was sent to us. As Anne’s motion states, there does not seem to be any need for a waiver resolution from us. Yet, the City Attorney said/implied that there was a need/reason for this contract to come to the PJC. Not being able to resolve this dilemma/contradiction, I abstain.”*

#### **Fifth Annual Peace Lantern Ceremony**

**M/S/C** (*Brody, sorgen*): adopt a Resolution (Attachment 2) endorsing the Fifth Annual Berkeley Peace Lantern Ceremony; encouraging the City Council to endorse the Berkeley Peace Lantern Ceremony, and directing the City Manager to place it on the City's Community Calendar on its website; and encouraging the Berkeley Unified School District Board to endorse the Berkeley Peace Lantern Ceremony and to encourage children in the school district and their families to participate in the ceremony, including distributing an announcement for schoolchildren to take home in late July. **Ayes:** Unanimous; **Absent:** Kashner, Litman, Seaton.

**Sweat-Free Berkeley Ordinance**

**M/S/C** (*Bohn, sorgen*) to endorse the recommendation from the Commission on Labor to the City Council to refer to the budget process an amount up to \$60,000 for FY 2007 to ensure that any sweat-free procurement measures undertaken by the City include funding for compliance and enforcement of those measures. **Ayes:** Unanimous; **Absent:** Kashner, Litman, Seaton.

**NEXT MEETING**

The next regular meeting will be on Monday, July 10, 2006 at 7:00 p.m. in the North Berkeley Senior Center.

The meeting was adjourned at 10:08 p.m.

Respectfully Submitted,

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Manuel Hector Jr., Secretary  
Peace and Justice Commission

Attachments

1. Resolution to approve the referendum calling for impeachment of President George W. Bush and Vice President Richard B. Cheney
2. Resolution endorsing the Fifth Annual Berkeley Peace Lantern Ceremony

**ATTACHMENT 1**

**REFERENDUM CALLING FOR IMPEACHMENT OF  
GEORGE W. BUSH AND RICHARD B. CHENEY**

**EXAMPLE BALLOT LANGUAGE**

<b>CITY OF BERKELEY REFERENDUM</b>	
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, call upon the California State Legislature to submit a Resolution in support of impeachment to the United States House of Representatives, and establish a Temporary Task Force on Impeachment?	YES
	NO

**TEXT OF REFERENDUM**

**REFERENDUM DECLARING THAT THE PEOPLE OF BERKELEY (1) 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; (2) CALL UPON THE CALIFORNIA STATE LEGISLATURE TO SUBMIT A RESOLUTION IN SUPPORT OF IMPEACHMENT TO THE UNITED STATES HOUSE OF REPRESENTATIVES; DIRECTING THAT COMMUNICATIONS TO THOSE EFFECTS BE SENT TO APPROPRIATE PARTIES; AND (3) ESTABLISH A TEMPORARY CITY OF BERKELEY TASK FORCE ON IMPEACHMENT**

The People of the City of Berkeley do hereby enact as follows:

## **Section 1 Title**

This referendum 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, including 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:
  - 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:

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:

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":
  - 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.

### **Section 3 Actions Required**

12. Within 30 days of passage of this Measure, the City Manager shall 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.

13. Within 45 days of passage of this Measure, the City Council of Berkeley shall establish a Temporary Task Force on Impeachment, which shall cease to exist when George W. Bush and Richard B. Cheney no longer hold federal office. The Mayor and each Council member shall be entitled to appoint one member to the Temporary Task Force. Said Temporary Task Force shall have among its duties to work with interested citizens and the City Council to monitor Congressional and State legislative action regarding impeachment, to educate the public, and to otherwise engage in First Amendment action to foster the creation of sufficient public opinion and activism to effectively promote the impeachment of President George W. Bush and Vice President Richard B. Cheney.

## ATTACHMENT 2

### ENDORING THE FIFTH ANNUAL PEACE LANTERN CEREMONY

**WHEREAS**, Berkeley Municipal Code § 3.68.010 states, in part: "The [Peace and Justice] commission shall perform the following functions: (A) Advise the Berkeley City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, [and] abolishing nuclear weapons...; ... (C) Help develop proposals for the City Council and the School Board for actions in furtherance of the goals of peace and justice, and help publicize such actions in the community"; and

**WHEREAS**, on Sunday evening, August 6, 2006, the 61st anniversary of the atomic bombing of Hiroshima, Japan, residents of Berkeley and vicinity will come together at Aquatic Park in Berkeley for the fifth annual Peace Lantern Ceremony in remembrance of the victims of the atomic bombings of Hiroshima and Nagasaki (August 9, 1945) during World War II, and of all victims of war; and

**WHEREAS**, the ceremony is a beautiful and moving tradition that has been imported from Japan by many cities in the United States and throughout the world, and Berkeley's event drew the participation of approximately 100 people in 2002, more than 300 in 2003, more than 400 in 2004, and more than 600 in 2005; and

**WHEREAS**, the event is an excellent family activity in which children as well as adults can decorate and prepare lanterns for floating on the Aquatic Park lagoon; and

**WHEREAS**, the Peace and Justice Commission endorsed the previous annual Peace Lantern Ceremonies, as did the City Council and numerous Berkeley-area peace and justice organizations; and

**WHEREAS**, this annual event, initiated by a member of the Peace and Justice Commission, is one element of a lively, ongoing exchange of peace activists between Berkeley and Japan during the past four years, including several delegations visiting Berkeley from Japan and three members of this Commission speaking at peace conferences in Japan; and

**WHEREAS**, all costs of producing the event have been borne by the individuals and community organizations participating in the event, and no funding is requested from the Commission, the City, or the School District.

**NOW THEREFORE, BE IT RESOLVED** that the Peace and Justice Commission endorses the fifth annual Berkeley Peace Lantern Ceremony.

**BE IT FURTHER RESOLVED**, that the Peace and Justice Commission encourages the City Council to endorse the Berkeley Peace Lantern Ceremony, and direct the City Manager to place it on the City's Community Calendar on its Web site.

**BE IT FURTHER RESOLVED**, that the Peace and Justice Commission encourages the Berkeley Unified School District Board to endorse the Berkeley Peace Lantern Ceremony, and to

encourage children in the school district and their families to participate in the ceremony, including distributing an announcement for schoolchildren to take home in late July.