



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR
February 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Support Affirming the Right to Boycott as a Tactic for Social and Political Change

RECOMMENDATION

Adopt a Resolution with the following actions:

1. Support Affirming the Right to Boycott as a Tactic for Social and Political Change, and celebrate the People of Berkeley for their commitment to Peace, Justice and Equity;
2. The City of Berkeley affirms the right of all people to participate in boycotts of any entity when they have conscientious concerns with the entity’s policies or actions;
3. The City of Berkeley condemns attempts by governments to infringe upon the right to peaceful boycotts by criminalizing that participation, denying participants state contracts, or otherwise impeding the freedom of advocacy for all;
4. The City Council encourages City Commissions to recommend boycott policies to the City Council when appropriate, so that the City Council may be well informed in its oversight of City resources
5. Send a copy of this resolution to Governor Gavin Newsom, Attorney General Xavier Becerra, State Assemblymember Buffy Wicks, State Senator Nancy Skinner, United States Senators Bernie Sanders, Kamala Harris, Dianne Feinstein, and United States Congressional Representatives Barbara Lee, Ro Khanna, Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, Rashida Harbi Tlaib, and Pramila Jayapal.

POLICY COMMITTEE RECOMMENDATION

On January 11, 2021, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Wengraf) to move the item to the full Council with a Negative Recommendation and recommend that the Council take no action on the item. Vote: All Ayes.

BACKGROUND

Berkeley’s municipal code defines “Peace and Justice” as “the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression” and the city has found that “the residents of Berkeley have continually demonstrated their concern for peace and justice based on equality among all peoples”¹.

¹ Ord. 5705-NS § 3, 1986

Boycotts have been effectively used in the United States by advocates for equal rights since the Boston Tea Party and include boycotts led by civil rights activists during the 1950s and 1960s in order to advocate for racial equality, such as the Montgomery bus boycott², and promote workers' rights, such as the United Farm Workers-led boycott of table grapes.

Berkeley has a long history of enacting and supporting boycotts on various issues of importance to the People of Berkeley, including boycotts against corporations including Motorola, Kaiser Aluminum, Shell, Honda, IBM, Coca-Cola, Hewlett-Packard, and others, sometimes targeting all companies doing business in a country or area (Burma, Occupied Tibet, Nigeria), or companies supplying weapons technology (a violation of the Nuclear-Free ordinance).

All forms of bigotry, including racism, classism, sexism, Islamophobia, anti-Semitism, homophobia, ableism, and all forms of hatred that target people based on their religion, ethnicity, nationality, disability, gender or sexual orientation, are unacceptable and inconsistent with Berkeley's commitment to equity and justice.

Criticism of the actions of corporations and nations is critical to healthy public discourse and must be protected in a democracy, and criticism of a nation, including by means of a non-violent citizens' boycott, does not constitute bigotry against the citizens of that nation. Rather, boycott is often a strategic and necessary means by which to encourage a government to abandon policies that are inconsistent with the ideals of peace and justice.

Boycotts and their importance are written into the Berkeley Municipal Code, including in the mandate of the Labor commission which reads "...encouraging support for officially sanctioned boycotts".

The right to boycott has repeatedly been reaffirmed as protected free speech by the first amendment of the United States' Constitution³, a protection that is of particular pride and importance to the City of Berkeley⁴, as the birthplace of the Free Speech Movement.

Despite its important history in social movements and its constitutional protections, governments and non-governmental organizations alike have sought to criminalize⁵, stigmatize, and delegitimize⁶ the use of boycotts in an attempt to stifle constitutionally protected political expression.

FINANCIAL IMPLICATIONS

None.

² Anne Brice, B., & Brice, A. (2020, February 18). The Montgomery bus boycott and the women who made it possible. Retrieved November 23, 2020, from <https://news.berkeley.edu/2020/02/11/podcast-montgomery-bus-boycott-womens-political-council/>

³ The Supreme Court, in the 1966 case *Rosenblatt v. Baer*, held that the First Amendment to the Constitution ensures that "criticism of government is at the very center of the constitutionally protected area of free discussion". Then, in 1982, in *NAACP v. Claiborne Hardware* they held that "the right of the States to regulate economic activity could not justify a complete prohibition against a nonviolent, politically motivated boycott".

⁴ UC Berkeley Library. (n.d.). Retrieved November 23, 2020, from <https://www.lib.berkeley.edu/libraries/bancroft-library/oral-history-center/projects/fsm>

⁵ Greenwald, G., & Grim, R. (2017, July 19). U.S. Lawmakers Seek to Criminally Outlaw Support for Boycott Campaign Against Israel. Retrieved November 23, 2020, from <https://theintercept.com/2017/07/19/u-s-lawmakers-seek-to-criminally-outlaw-support-for-boycott-campaign-against-israel/>

⁶ Carol Morello, S. (2020, November 19). Pompeo sets off debate on boycott of Israel, calling it an anti-Semitic 'cancer'. Retrieved November 23, 2020, from https://www.washingtonpost.com/national-security/pompeo-israel-bds-movement-boycott/2020/11/19/79fe4cba-2a7d-11eb-b847-66c66ace1afb_story.html

ENVIRONMENTAL SUSTAINABILITY

Protecting the community's right to boycott as a Tactic for Social and Political Change is an act of environmental sustainability.

CONTACT PERSONS

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ATTACHMENTS:

1. Resolution

RESOLUTION NO. ##,###-N.S.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA
SUPPORT AFFIRMING THE RIGHT TO BOYCOTT AS A TACTIC FOR SOCIAL AND
POLITICAL CHANGE

WHEREAS, Berkeley's municipal code defines "Peace and Justice" as "the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression" and the city has found that "the residents of Berkeley have continually demonstrated their concern for peace and justice based on equality among all peoples"⁷; and

WHEREAS, boycotts have been effectively used in the United States by advocates for equal rights since the Boston Tea Party and include boycotts led by civil rights activists during the 1950s and 1960s in order to advocate for racial equality, such as the Montgomery bus boycott⁸, and promote workers' rights, such as the United Farm Workers-led boycott of table grapes; and

WHEREAS, Berkeley has a long history of enacting and supporting boycotts on various issues of importance to the People of Berkeley, including boycotts against corporations including Motorola, Kaiser Aluminum, Shell, Honda, IBM, Coca-Cola, Hewlett-Packard, and others, sometimes targeting all companies doing business in a country or area (Burma, Occupied Tibet, Nigeria), or companies supplying weapons technology (a violation of the Nuclear-Free ordinance); and

WHEREAS, all forms of bigotry, including racism, sexism, Islamophobia, anti-Semitism, homophobia, ableism, and all forms of hatred that target people based on their religion, ethnicity, nationality, disability, gender or sexual orientation, are unacceptable and inconsistent with Berkeley's commitment to equity and justice; and

WHEREAS, criticism of the actions of corporations and nations is critical to healthy public discourse and must be protected in a democracy, and criticism of a nation, including by means of a non-violent citizens' boycott, does not constitute bigotry against the citizens of that nation. Rather, boycott is often a strategic and necessary means by which to encourage a government to abandon policies that are inconsistent with the ideals of peace and justice; and

WHEREAS, boycotts and their importance are written into the Berkeley Municipal Code, including in the mandate of the Labor commission which reads "...encouraging support for officially sanctioned boycotts"; and

WHEREAS, the right to boycott has repeatedly been reaffirmed as protected free speech by the first amendment of the United States' Constitution⁹, a protection that is of particular pride and importance to the City of Berkeley¹⁰, as the birthplace of the Free Speech Movement; and

⁷ Ord. 5705-NS § 3, 1986

⁸ Anne Brice, B., & Brice, A. (2020, February 18). The Montgomery bus boycott and the women who made it possible. Retrieved November 23, 2020, from <https://news.berkeley.edu/2020/02/11/podcast-montgomery-bus-boycott-womens-political-council/>

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¹⁰ UC Berkeley Library. (n.d.). Retrieved November 23, 2020, from <https://www.lib.berkeley.edu/libraries/bancroft-library/oral-history-center/projects/fsm>

WHEREAS, despite its important history in social movements and its constitutional protections, governments and non-governmental organizations alike have sought to criminalize¹¹, stigmatize, and delegitimize¹² the use of boycotts in an attempt to stifle constitutionally protected political expression.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Berkeley hereby support Affirming the Right to Boycott as a Tactic for Social and Political Change, and celebrate the People of Berkeley for their commitment to Peace, Justice and Equity; and

BE IT FURTHER RESOLVED, The City of Berkeley affirms the right of all people to participate in boycotts of any entity when they have conscientious concerns with the entity's policies or actions;

BE IT FURTHER RESOLVED, The City of Berkeley condemns attempts by governments to infringe upon the right to peaceful boycotts by criminalizing that participation, denying participants state contracts, or otherwise impeding the freedom of advocacy for all;

BE IT FURTHER RESOLVED, The City Council encourages City Commissions to recommend boycott policies to the City Council when appropriate, so that the City Council may be well informed in its oversight of City resources

BE IT FURTHER RESOLVED, Send a copy of this resolution to Governor Gavin Newsom, Attorney General Xavier Becerra, State Assemblymember Buffy Wicks, State Senator Nancy Skinner, United States Senators Bernie Sanders, Kamala Harris, Dianne Feinstein, and United States Congressional Representatives Barbara Lee, Ro Khanna, Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, Rashida Harbi Tlaib, and Pramila Jayapal.

¹¹ Greenwald, G., & Grim, R. (2017, July 19). U.S. Lawmakers Seek to Criminally Outlaw Support for Boycott Campaign Against Israel. Retrieved November 23, 2020, from <https://theintercept.com/2017/07/19/u-s-lawmakers-seek-to-criminally-outlaw-support-for-boycott-campaign-against-israel/>

¹² Carol Morello, S. (2020, November 19). Pompeo sets off debate on boycott of Israel, calling it an anti-Semitic 'cancer'. Retrieved November 23, 2020, from https://www.washingtonpost.com/national-security/pompeo-israel-bds-movement-boycott/2020/11/19/79fe4cba-2a7d-11eb-b847-66c66ace1afb_story.html

