To: Honorable Mayor and Members of the City Council  
From: Peace & Justice Commission  
Submitted by: George Lippman, Chairperson, Peace & Justice Commission  
Subject: Support of Indigenous Peoples  

RECOMMENDATION Support of Indigenous Peoples
Adopt three (3) Resolutions in support and recognition of Indigenous Peoples including:

a) Recognizing the Ohlone People;

b) Honor Berkeley Shellmound Indigenous Sacred Site;

c) Urging the East Bay Regional Parks District to honor Ohlone Indigenous Rights and Protect Ohlone Place of Origin Sacred Site;

d) Implement United Nations Declaration on the Rights of Indigenous Peoples as Municipal Policy; and (Resolution No. 67,328-N.S. adopted at the December 15, 2015 City Council meeting.)

e) Endorse Upgrading the United Nations Declaration on the Rights of Indigenous Peoples to a Convention (Resolution No. 67,329-N.S. adopted at the December 15, 2015 City Council meeting.)

Copies of the resolutions are to be sent to the parties indicated in the resolutions.

FISCAL IMPACTS OF RECOMMENDATION
None.

CURRENT SITUATION AND ITS EFFECTS
On April 7, 2014, the Peace & Justice convened a public forum on the rights of Indigenous People’s. It drew an attendance of 76 community members. Following presentations by a distinguished and diverse panel, there was a dynamic discussion between the Commission, Panel and community on the rights, issues and challenges facing Indigenous Peoples in Berkeley, the Bay Area, state and nationwide.

Following the Forum, the Commission considered and approved a series of Resolutions recommended for Council consideration. On February 2, 2015, the Commission
revisited and amended the Shellmound recommendation b) below (Attachment 2), as noted:

a) Approve Resolution recognizing the Ohlone People

M/S/C: (Kenin/Meola)

Ayes: Bohn, Kenin, Lippman, Maran, Meola, Nicely, Peirotes, Sochet
Noes: None
Abstain: None
Absent: Jailer Shannon

b) Approve Resolution regarding the Shellmound Sacred Site

M/S/C: (Bohn/Meola)

Ayes: Bakla, Bohn, Kenin, Lippman, Maran, Meola, B., Meola, S., Nicely, Nuruddin, Sochet
Noes: None
Abstain: None
Absent: Herrera
Excused: Peirotes

c) Approve Resolution regarding the East Bay Regional Parks protection of Ohlone Sacred Sites

M/S/C: (Kenin/Sochet)

Ayes: Bohn, Kenin, Lippman, Meola, Nicely, Sochet
Noes: Maran, Peirotes
Abstain: None
Absent: Jailer Shannon

d) Approve recommendation implementing the United Nations Declaration on the Rights of Indigenous Peoples as Municipal Policy

M/S/C: (Kenin/Sochet)

Ayes: Bohn, Kenin, Lippman, Meola, Nicely, Sochet
Noes: Maran, Peirotes
Abstain: None
Absent: Jailer Shannon
e) Approve recommendation turning the United Nations Declaration on the Rights of Indigenous Peoples into a Convention

M/S/C: (Kenin/Sochet)

Ayes: Bohn, Kenin, Lippman, Meola, Nicely, Sochet
Noes: Maran, Peirotes
Abstain: None
Absent: Jailer Shannon

BACKGROUND
The City of Berkeley adopted Ordinance 5985 N.S., the “City of Berkeley Human Rights Ordinance, 1990” adopting a human rights policy based on articles 55 and 56 of the United Nations Charter; and

On May 19, 2009, the Berkeley City Council passed a resolution to recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 1; and article 32, 2 of UNDRIP states, “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

ENVIRONMENTAL SUSTAINABILITY
There are opportunities consistent with the City’s environmental sustainability goals and requirements related to the adoption of these recommendations.

RATIONALE FOR RECOMMENDATION
The Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley’s role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070. The Commission believes that the recognition and rights of Indigenous Peoples is an essential element of furthering a process of rectifying past violations of the rights of such Indigenous Peoples and achieving social justice and supporting a diverse and inclusive community.

ALTERNATIVE ACTIONS CONSIDERED
None

CITY MANAGER
The City Manager takes no position on the content and recommendations of the Commission’s Report.
CONTACT PERSON
George Lippman, Chairperson, Peace & Justice Commission 510/517-8379
Wendy Kenin, Commissioner, Peace & Justice Commission 510/504-4937
Eric Brenman, Secretary, Peace & Justice Commission 510/981-5114

Attachments:
1: Resolutions (5)
WHEREAS the Ohlone village of Huchium existed in what is now the Berkeley city limits; and
WHEREAS the Ohlone language Chochenyo was and is spoken in the area now called Berkeley; and
WHEREAS the Ohlone Peoples spoke and still speak more than one language; and
WHEREAS the Ohlone Peoples have sacred sites and burial sites in the City and greater Bay Area region.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley recognizes the Ohlone Peoples as the original inhabitants of the land now called Berkeley and the region.

BE IT FURTHER RESOLVED that the City of Berkeley will work in good faith with representatives of the Ohlone peoples today.
RESOLUTION NO. -N.S.

HONOR BERKELEY SHELLMOUND INDIGENOUS SACRED SITE, UC BERKELEY
RETURN ANCESTRAL REMAINS TO OHLONE PEOPLES

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070; and

WHEREAS the City of Berkeley adopted Ordinance 5985 N.S., the “City of Berkeley Human Rights Ordinance, 1990” adopting a human rights policy based on articles 55 and 56 of the United Nations Charter; and

WHEREAS, on May 19, 2009, the Berkeley City Council passed a resolution to recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); and

WHEREAS article 32, 2 of UNDRIP states, “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”; and

WHEREAS the Berkeley Shellmound is designated as a City of Berkeley Landmark; and

WHEREAS the Berkeley Shellmound is held sacred by the Ohlone Peoples, the original peoples of this land; and

WHEREAS continuous development has altered and desecrated much of the Berkeley Shellmound.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley considers the principles agreed to in the United Nations Declaration on the Rights of Indigenous Peoples to pertain to and apply in the City of Berkeley.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley recognizes that many of these principles have been violated continually and egregiously by European and U.S. settlers and governments in the Bay Area, including the right of indigenous peoples to self-determination, to be free of discrimination, protection from forced assimilation or destruction of their culture, and “the right to maintain, protect, and develop the past, present, and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, (and) ceremonies”, and the right to redress, including restitution, developed in conjunction with indigenous people, with regard to such property taken without their free, prior and informed consent.
BE IT FURTHER RESOLVED that the Council of the City of Berkeley affirms that defense of indigenous rights, culture, and dignity are a public value of the City, with benefits that redound to every City resident, and should, therefore carry great weight in the City’s land use and development, public planning, landmarking, and zoning.

BE IT FURTHER RESOLVED that free, prior, and informed consent of the Ohlone and other indigenous peoples of the region be integral to any alteration planning for the Berkeley Shellmound sacred site, in accordance with the provisions of the United Nations Declaration on the Rights of Indigenous People, and calls upon all parties to follow the principles of the Declaration with respect to the West Berkeley Shellmound site.

BACKGROUND

News Articles:
http://www.berkeleyside.com/2014/02/03/a-dig-in-a-berkeley-parking-lot-seeks-shellmound-answers/
http://berkeleyheritage.com/berkeley_landma../shellmound.html
RESOLUTION NO. -N.S.

URGING THE EAST BAY REGIONAL PARKS DISTRICT TO HONOR OHLONE INDIGENOUS RIGHTS AND PROTECT OHLONE PLACE OF ORIGIN SACRED SITE

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070; and

WHEREAS the City of Berkeley adopted Ordinance 5985 N.S., the “City of Berkeley Human Rights Ordinance, 1990” adopting a human rights policy based on articles 55 and 56 of the United Nations Charter; and

WHEREAS, on May 19, 2009, the Berkeley City Council passed a resolution to recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 1; and

WHEREAS article 11, 2 of UNDRIP states, “States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs2; and

WHEREAS article 12 of UNDRIP states, “Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites”; and

WHEREAS Brushy Peak, south of Mt. Diablo, under management of the East Bay Regional Parks District is a sacred site and ceremonial site to the Ohlone as their place of origin according to their religion; and

WHEREAS the location of development and a trail to Brushy Peak has been identified as degrading the sacred site by Ohlone people3.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley urges the East Bay Regional Parks District to reroute the trail which approaches the Ohlone Place of Origin sacred site and provide access for Ohlone people to maintain, protect, and have access to their cultural site for religious use.

BE IT FURTHER RESOLVED that the City of Berkeley urges EBRPD to adopt a best practices consultation policy with local Native peoples.

BE IT FURTHER RESOLVED that Council direct the City Clerk to send a copy of this resolution to the East Bay Regional Park District.
Address:
East Bay Regional Park District (EBRPD)
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, CA 94605-0381

BACKGROUND
VIDEO DOCUMENTARY:

Buried Voices http://vimeo.com/43092751


3 EBRPD public comment http://www.ustream.tv/recorded/34898881
RESOLUTION NO. -N.S.

IMPLEMENT UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AS MUNICIPAL POLICY

WHEREAS the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 368.070; and

WHEREAS the City of Berkeley adopted Ordinance 5985 N.S., the “City of Berkeley Human Rights Ordinance, 1990” adopting a human rights policy based on articles 55 and 56 of the United Nations Charter; and

WHEREAS on May 19, 2009, the Berkeley City Council passed resolution to Recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples1; and

WHEREAS the City of Berkeley recognizes the unique history and historical knowledge of and by Indigenous peoples in the region and the world; and

WHEREAS defense of indigenous rights, culture, and dignity are a public value of the City, with benefits that redound to every City resident, and should therefore carry great weight in the City's land use and development, public planning, landmarking and zoning; and

WHEREAS it is incumbent upon the City of Berkeley to respect and implement internationally recognized treaties, agreements, and declarations of which the United States of America is a signatory; and

WHEREAS the participants of the International Symposium on Indigenous Peoples at the United Nations: From the Experience of the First Delegates to the Empowerment of the Younger Generations" on September 13, 2013 recommended the following steps to implement the Declaration in local communities:

- Work to have the domestic, regional, state or provincial government support and endorse the Declaration.
- Consider an Implementation Act at the national or federal level.
- Utilize all relevant parliamentary or governmental committees.
- All schools and colleges should teach the Declaration and include it in their curriculum.
- Persistently educate Indigenous Peoples on the Declaration at the local level. Advocate for corporations and business enterprises, operating or seeking to operate in concert with the Declaration.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley states its intent to create an ordinance to implement the Declaration on the Rights of Indigenous Peoples as municipal policy.
BACKGROUND:


RESOLUTION NO. -N.S.

ENDORSE UPGRAADING THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES TO A CONVENTION

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070; and

WHEREAS, on May 19, 2009, the Berkeley City Council passed resolution to Recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples1 (UNDRIP); and

WHEREAS, the City of Berkeley recognizes the the unique history and historical knowledge of and by Indigenous peoples in the region and the world, and

WHEREAS, it is incumbent upon the City of Berkeley to respect and implement internationally recognized treaties, agreements, and declarations of which the United States of America is a signatory, but the term "declaration" is used for various international instruments, and declarations are not always legally binding2; and

WHEREAS, a United Nations "Convention" is a source of laws synonymous with the generic term "treaty"3; and

WHEREAS, the UNDRIP chronologically moved in 1984 from a mere proclamation in UN working group, to a resolution in the Sub-Commission on Prevention of Discrimination and the Protection of Minorities, to a recommendation from the Human Rights Commission, and finally, to a Declaration from the Economic and Social Council before the General Assembly; and

WHEREAS, UNDRIP was adopted in September 13, 2007 by the General Assembly, testimonies from Indigenous peoples in the seven regions of the world have shown a need for enforcement and monitoring by the UN; and

WHEREAS, the participants of the Symposium “On the Indigenous Peoples at the United Nations: from the Experience of the First Delegates to the Empowerment of the Younger Generations” September 2013 in Geneva, Switzerland2 urged, “the UN to develop a mechanism to advance the Declaration to Convention,” per the historic 1983 Martinez-Cobo Study.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley urges United States Ambassador to the United Nations to introduce a resolution in the UN to convert the UNDRIP to a Convention.
BE IT FURTHER RESOLVED that Council direct the City Clerk to send a copy of this resolution to the US Ambassador to the United Nations and to the Secretary General of the United Nations.


BACKGROUND:
On June 29, 2006, the United Nations Human Council adopted the U.N. Declaration on the Rights of Indigenous Peoples. The Declaration is a tool for indigenous peoples to address human rights violations that affect the over 370 million indigenous people worldwide and assist them in taking actions against governments to combat discrimination and marginalization. Among other things, the Declaration respects the right of indigenous peoples to self-determination and recognizes subsistence rights and rights to land, territories and resources.

On May 4, 2009, the City of Berkeley Peace and Justice Commission unanimously recommended that the City Council recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples, and send a letter to the United States Ambassador to the United Nations, Susan Rice, calling on the United States government to endorse the United Nations Declaration on the Rights of Indigenous Peoples, and send copies of the letter to Secretary of State Hillary Clinton and President Barack Obama.


Study on treaties, agreements and other constructive arrangements between States and indigenous populations Final report by Miguel Alfonso Martínez, Special Rapporteur 22 June 1999
COMMISSION ON HUMAN RIGHTS Sub-Commission on Prevention of Discrimination and Protection of Minorities

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