



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR
November 12, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Kate Harrison

Subject: Support Impeachment Actions to Immediately Remove the 45th President of the United States

RECOMMENDATION

Adopt a Resolution supporting impeachment efforts to immediately remove the 45th President of the United States, and send a letter including this resolution to California State Assemblymember Buffy Wicks, California State Senator Nancy Skinner, US House of Representatives Speaker Nancy Pelosi, as well as, Congress Representatives Barbara Lee, Alexandria Ocasio-Cortez, Rashida Tlaib and Ayanna Pressley.

BACKGROUND

Since the inauguration of Donald Trump as the 45th President of the United States in January 2017, he and his administration have been mired in violations, scandals, lawsuits, spreading fear and encouraging racism and hate. Within his first two weeks of his term, 55 lawsuits were filed against the President (compared to 14 lawsuits for the last three Presidents combined during the same period).

Leading constitutional scholars and government ethics experts warned Mr. Trump shortly after the November 2016 election that, unless he fully divest his businesses and invest the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office.

On January 25, 2017, President Trump signed an executive order that would cut funding to Sanctuary Cities, including the City of Berkeley, despite the court's ruling in the past that the federal government can only remove funding related to a specific policies, and that the federal government cannot threaten to cut funding in order to coerce action. President Trump has continuously threatened Berkeley with his social media comments.

At the March 28, 2017 Berkeley City Council Meeting, the Council unanimously approved "A Resolution supporting an investigation into the impeachment of President Trump and sending a copy of the Resolution to Congresswoman Barbara Lee", joining several cities nationwide that have passed resolutions supporting an investigation into the impeachment of the President of the United States.

Since Mr. Trump took office, he and his administration and associates has been in violation of the United States Constitution and countless laws. These violations undermine the integrity of the Presidency, corruptly advance the personal wealth of the President, and violate the public trust. According to RootsAction.org, an organization launched on inauguration day, Mr. Trump, his administration and associates have engaged in countless violations since January 2017 include but are not limited to:

The articles of impeachment are as follows, as of October 17, 2019:

Incitement of Violence

Interference With Voting Rights

Discrimination Based On Religion

Illegal War

Illegal Threat of Nuclear War

Obstruction of Justice

Politicizing Prosecutions

Collusion Against the United States with a Foreign Government

Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria

Separating Children and Infants from Families

Illegally Attempting to Influence an Election

Tax Fraud and Public Misrepresentation

Assaulting Freedom of the Press

Supporting a Coup in Venezuela

Unconstitutional Declaration of Emergency

Instructing Border Patrol to Violate the Law

Refusal to Comply With Subpoenas

Declaration of Emergency Without Basis In Order to Violate the Will of Congress

Illegal Proliferation of Nuclear Technology

Illegally Removing the United States from the Intermediate-Range Nuclear Forces Treaty

Seeking to Use Foreign Governments' Resources Against Political Rivals

Refusal to Comply with Impeachment Inquiry

Violation of Constitution on Domestic Emoluments

Violation of Constitution on Foreign Emoluments

Incitement of Violence

Interference With Voting Rights

Discrimination Based On Religion

Abuse of Pardon Power

Obstruction of Justice

Politicizing Prosecutions

Collusion Against the United States with a Foreign Government

Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria

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Refusal to Comply with Impeachment Inquiry

FISCAL IMPACTS OF RECOMMENDATION

There is no financial impact to adopt this resolution.

ENVIRONMENTAL SUSTAINABILITY

The 45th President of the United States has a long record of reversing and destroying years of hard work of legislative measures to protect the environment, immigrant rights, DACA, the list is long and ongoing. Should the impeachment process result in the removal of the 45th President of the United States, it presents an opportunity to stop further damage to the environment, humanitarian goals and constitutional rights.

CONTACT PERSON

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ATTACHMENTS:

1. Letter to United States House of Representatives: Speaker Nancy Pelosi; Congresswoman Representatives Barbara Lee, Alexandria Ocasio-Cortez, Rashida Tlaib and Ayanna Pressley
2. Letter to California Assemblymember Buffy Wicks and Senator Nancy Skinner
3. Resolution

November 12, 2019

To: United States House of Representatives: Speaker Nancy Pelosi
Congresswoman Barbara Lee, Alexandria Ocasio-Cortez, Rashida Tlaib and Ayanna Pressley

Re: Support Impeachment Actions to Immediately Remove the 45th President of the United States

Dear Speaker Pelosi, Congresswoman Representatives Lee, Ocasio-Cortez, Tlaib and Pressley:

Attached is the resolution passed by the Berkeley City Council to “Support impeachment actions to immediately remove the 45th President of the United States”. The resolution contains through researched facts and findings of countless violations that should be grounds to assist in your actions to immediately remove the 45th President of the United States.

We also request you direct the Committee on the Judiciary of said House to investigate whether sufficient grounds exist for the impeachment of Donald Trump, President of the United States/

We also support any legislative or administrative action that would advance the impeachment inquiry into President Donald Trump opened by Speaker Nancy Pelosi and the U.S. House of Representatives, and supports the investigation of this President for actions which may amount to Treason, Bribery or high Crimes and Misdemeanors.

Sincerely,

The Berkeley City Council

To: California State Senator Nancy Skinner
California State Assemblymember Buffy Wicks

Date: November 12, 2019

Re: **Support Impeachment Actions to Immediately Remove the 45th President of the United States**

Dear Senator Skinner and Assemblymember Wicks:

Attached is the resolution passed by the Berkeley City Council to "Support Impeachment Actions to Immediately Remove the 45th President of the United States."

We call request the California State Assembly and Senate to adopt its own resolution calling for the United States House of Representatives to authorize an investigation into whether sufficient grounds exist for the impeachment of Donald Trump, President of the United States. Our resolution contains through researched facts and findings of countless violations that should be grounds to assist in your preparation to introduce a resolution before the State Assembly and Senate.

Sincerely,

The Berkeley City Council

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA IN SUPPORT OF IMPEACHMENT ACTIONS TO IMMEDIATELY REMOVE THE 45th PRESIDENT OF THE UNITED STATES

WHEREAS, All elected officials nationwide, from City Councilmembers to the President of the United States takes a solemn oath to faithfully execute the duties of the Office to the best of his or her ability, and to preserve, protect and defend the Constitution of the United States; and

WHEREAS, this oath commands all who swear by it to put the interests of the United States before one's own, to protect the liberties the Constitution bestows before protecting oneself, and to faithfully serve the people of the United States without pause for self-preservation; and

WHEREAS, Our democracy is premised on the bedrock principle that no elected official is above the law, not even the President of the United States;

WHEREAS, Article II, Section 4 of the United States Constitution gives the people of the United States, through their duly elected representatives, the right to impeach the President of the United States for Treason, Bribery, or other high Crimes and Misdemeanors; and

WHEREAS, the United States of America, so enshrined in its Constitution, is served by three co-equal branches of government, the Executive, Legislative, and Judiciary, each of which carry checks and balances to protect the nation from tyranny and preserve the gifts of liberty and justice for all its people; and

WHEREAS, Leading constitutional scholars and government ethics experts warned Donald J. Trump shortly after the November 2016 election that, unless he fully divested his businesses and invested the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office.

WHEREAS, on January 20, 2017, Donald Trump took the oath of office and became the 45th President of the United States; and

WHEREAS, from the moment he took office, President Trump was in violation of the Foreign Emoluments Clause and the Domestic Emoluments Clause of the United States Constitution; and

WHEREAS, on January 23, 2017, Citizens for Responsibility and Ethics in Washington filed a lawsuit against President Trump alleging violations of the Emoluments Clause due to his company's international business dealings and failing to fully divest from his company and business interests; and

WHEREAS, President Trump's continual use of blatantly unfounded comments that millions of Americans committed voter fraud threatens to undermine the sanctity of the American democratic process; and

WHEREAS, President Trump has violated the freedom of the press guaranteed under the First Amendment of the United States Constitution by attacking the media, discrediting news groups who have journalistically criticized him as "fake news" and forcefully blocking the press at press conferences; and

WHEREAS, on January 25, 2017, President Trump signed an executive order that would

cut funding to Sanctuary Cities, including the City of Berkeley, despite the court's ruling in the past that the federal government can only remove funding related to a specific policies, and that the federal government cannot threaten to cut funding in order to coerce action; and

WHEREAS, at the March 28, 2017 Berkeley City Council Meeting, the Council unanimously approved "A Resolution supporting an investigation into the impeachment of President Trump and sending a copy of the Resolution to Congresswoman Barbara Lee", joining several cities nationwide that have passed resolutions supporting an investigation into the impeachment of the President of the United States; and

WHEREAS, on May 9, 2017, President Trump interfered with the investigation of his Presidency by firing James Comey, the Director of the Federal Bureau of Investigation, who was leading one or more investigations that might have incriminated President Trump and/or his close associates.

WHEREAS, on August 26, 2017, President Trump abused the pardon power of the President, pardoned Joseph Arpaio, the former Arizona Sheriff who was convicted of criminal contempt of court for willfully and openly defying a judicial order to cease a practice, which the court found to be unconstitutional, of detaining people, based on their presumed Latino ancestry, without reasonable suspicion that they had committed any crime. In our nation's history no previous president has ever pardoned a public official convicted of criminal contempt of court for willfully disobeying a court order to stop violating individuals' constitutional rights. The pardon under mines separation of powers and due process of law by allowing an official to skirt a judicial mandate without consequences.

WHEREAS, President Trump reportedly informed a United States senator that he would bomb North Korea if it continued testing missiles. Available public evidence suggests that Donald J. Trump does not understand, and/or is unwilling or unable to understand, the risks of the use of nuclear weapons, or of how the North Korean leadership could interpret or misinterpret his verbal threats or movement of military forces as military attacks that lead them to respond with conventional or nuclear attacks on the United States or other nations,

WHEREAS, President Trump's reckless threats of nuclear war against foreign nations, undermining and subverting the essential diplomatic functions and authority of federal agencies, including the United States Department of State, and other conduct that heightens the risk of hostilities involving weapons of mass destruction, grossly and wantonly endanger the peace and security of the United States, its people and people of other nations, with reckless disregard for the risk of death and grievous bodily harm,

WHEREAS, President Trump has issued public statements, including on Twitter, pressuring the U.S. Department of Justice and the Federal Bureau of Investigation to investigate Hillary Clinton, the Democratic Party, and other political adversaries,

WHEREAS, President Trump has issued public comments on other pending criminal and court-martial proceedings, with the evident purpose to direct and influence the prosecution and outcome of specific proceedings, to the detriment of the independence of law enforcement from command influence and in derogation of the right to a fair trial,

WHEREAS, President Trump has directed or endeavored to direct law enforcement, including the Department of Justice and the Federal Bureau of Investigation, to investigate and prosecute political adversaries and others, for improper purposes not justified by any lawful function of his office, thereby eroding the rule of law, undermining the independence of law enforcement from politics, and compromising the constitutional right to due process of law,

WHEREAS, President Trump has repeatedly attacked major U.S. news organizations as “fake news” and “the enemy of the American people,” and abused the power of his office in an effort to retaliate against the independent press, thus undermining the freedom of the press at home and abroad;

WHEREAS, President Trump, through his administration, has cruelly and deliberately imprisoned children who have committed no crime, separately from their parents, in violation of fundamental human rights of both parents and children in contravention of the Constitution, in some cases resulting in permanent separation of children from their parents due to government action, in violation of due process of law and the prohibition against cruel and unusual punishments;

WHEREAS, President Trump stands accused by his own personal attorney of having made and directed payments of “hush money” to prevent two former mistresses from speaking publicly about his extramarital affairs, for the purpose of influencing the 2016 election, and in violation of federal campaign finance law;

WHEREAS, the Logan Act (1 Stat. 613, 18 U.S.C. § 953) is a long-standing law which criminalizes negotiation with foreign governments by private citizens and/or unauthorized persons; and

WHEREAS, a recently released transcript summary of President Trump's phone call with Ukraine President, Volodymyr Zelensky, shows that the President urged Zelensky to investigate former Vice President and current Democratic presidential candidate, Joe Biden and his son, Hunter Biden, who had who sat on the board of a Ukrainian natural gas company; and

WHEREAS, President Trump further indicated on the July 25 call that he would have his personal attorney, Rudy Giuliani, contact President Zelensky regarding the requested investigation, stating, "I will have Mr. Giuliani give you a call and I am also going to have Attorney General Barr call and we will get to the bottom of it. I'm sure you will figure it out"; and

WHEREAS, the House of Representatives, led by Speaker Nancy Pelosi, has opened an impeachment inquiry into the actions of President Donald J. Trump, seeking, among other information, the whistleblower's report; and

WHEREAS, in October 2019, Vice President Mike Pence and President Trump's personal attorney Rudy Giuliani refuses to cooperate with the impeachment inquiry, another evidence of obstruction of justice;

WHEREAS, many members of the House of Representatives, including the Chair of the House Intelligence Committee, Congressman Adam Schiff, have dutifully executed their duty to investigate potential crimes and abuses of power by the President of the United States, revealing a number of grave abuses of power and potentially treasonous conduct by the President and his Administration; and

NOW, THEREFORE, BE IT RESOLVED, Berkeley City Council, hereby supports impeachment actions to immediately remove the 45th President of the United States, and further supports any legislative or administrative action that would advance the impeachment inquiry into President Donald Trump opened by Speaker Nancy Pelosi and the U.S. House of Representatives, and supports the investigation of this President for actions which may amount to Treason, Bribery or high Crimes and Misdemeanors; and

BE IT FURTHER RESOLVED Berkeley City Council directs the City Clerk or designee to submit copies of this resolution to United States House of Representatives: Speaker Nancy Pelosi, as

well as Congresswoman Barbara Lee, Alexandria Ocasio-Cortez, Rashida Tlaib and Ayanna Pressley; and

BE IT FURTHER RESOLVED, Berkeley City Council call upon the United States House of Representatives to support a resolution authorizing and directing the Committee on the Judiciary of said House to investigate whether sufficient grounds exist for the impeachment of Donald Trump, President of the United States, including but not limited to the following violations:

- (1) violating the Foreign Emoluments Clause and Domestic Emoluments Clause of the United States Constitution;
- (2) obstructing justice;
- (3) conspiring with others to: (a) commit crimes against the United States involving the solicitation and intended receipt by the Donald J. Trump campaign of things of value from a foreign government and other foreign nationals; and (b) conceal those violations;
- (4) advocating illegal violence, giving aid and comfort to white supremacists and neo-Nazis, and undermining constitutional protections of equal protection under the law;
- (5) abusing the pardon power;
- (6) Illegal Threat of Nuclear War
- (7) recklessly threatening nuclear war against foreign nations, undermining and subverting the essential diplomatic functions and authority of federal agencies, including the United States Department of State, and engaging in other conduct that grossly and wantonly endangers the peace and security of the United States, its people and people of other nations, by heightening the risk of hostilities involving weapons of mass destruction, with reckless disregard for the risk of death and grievous bodily harm;
- (8) Illegal War
- (9) Obstruction of Justice
- (10) directing or endeavoring to direct law enforcement, including the Department of Justice and the Federal Bureau of Investigation, to investigate and prosecute political adversaries and others, for improper purposes not justified by any lawful function of his office, thereby eroding the rule of law, undermining the independence of law enforcement from politics, and compromising the constitutional right to due process of law;
- (11) undermining the freedom of the press;
- (12) cruelly and unconstitutionally imprisoning children and their families; and
- (13) making and directing illegal payments to influence the 2016 election.
- (14) Incitement of Violence Nationwide
- (15) Interference With Voting Rights
- (16) Discrimination Based On Religion
- (17) Politicizing Prosecutions
- (18) Collusion Against the United States with a Foreign Government
- (19) Failure to Reasonably Prepare for or Respond to Hurricanes Harvey and Maria
- (20) Separating Children and Infants from Families
- (21) Illegally Attempting to Influence an Election
- (22) Tax Fraud and Public Misrepresentation
- (23) Assaulting Freedom of the Press
- (24) Supporting a Coup in Venezuela
- (25) Unconstitutional Declaration of Emergency
- (26) Instructing Border Patrol to Violate the Law
- (27) Refusal to Comply With Subpoenas
- (28) Declaration of Emergency Without Basis In Order to Violate the Will of Congress
- (29) Illegal Proliferation of Nuclear Technology
- (30) Illegally Removing the United States from the Intermediate-Range Nuclear Forces Treaty
- (31) Seeking to Use Foreign Governments' Resources Against Political Rivals
- (32) Refusal to Comply with Impeachment Inquiry

BE IT FURTHER RESOLVED that the Berkeley City Council call upon the California State Assembly and Senate to adopt its own resolution calling upon the United States House of

Representatives to support a resolution authorizing an investigation into whether sufficient grounds exist for the impeachment of Donald Trump, President of the United States; and direct the City Clerk or designee to submit copies of this resolution to State Assemblymember Buffy Wicks and State Senator Nancy Skinner;