



Office of the Mayor

CONSENT CALENDAR

March 28, 2017

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Sophie Hahn

Subject: Support for the Investigation to Impeach President Donald Trump

RECOMMENDATION

Adopt a Resolution supporting an investigation into the impeachment of President Donald Trump and sending a copy of the Resolution to Congresswoman Barbara Lee.

BACKGROUND

The past couple of months of the Trump Administration have been mired in scandal, lawsuits, and controversy. In the first two weeks alone, 55 lawsuits were filed against the President (compared to 14 lawsuits for the last three Presidents combined during the same period). Polling suggests that the nation is evenly split on whether or not the President should be impeached. Locally, the City of Richmond passed a Resolution in support of impeachment, and the City of Alameda is discussing this proposal. Below is a sample of the many Constitutional violations and abuses committed by the Trump Administration.

The Emoluments Clause

Article 1, Section 9, Clause 8 of the US Constitution states that “no Person holding any Office of Profit or Trust under [the United States] shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.” Known as the Emoluments Clause, this was written to prevent elected officials from being bribed by foreign governments. An emolument is an overarching term, covering financial benefits such as monetary payments, purchase of goods and services, subsidies, and tax breaks.

As a business owner of an international corporation, Donald Trump had been alerted to potential violations to the Constitution by legal scholars long before he assumed the presidency. His efforts to stay out of day-to-day operations of his company do not go far enough in preventing emoluments from foreign governments. Just days after being sworn in, Citizens for Responsibility and Ethics in Washington filed a lawsuit against President Trump for violations of the Emoluments Clause.

Threats to Cut Federal Funding

A major campaign promise, which is rife with legal questions is his promise to eliminate federal funding to Sanctuary Cities. The President has no legal authority to unilaterally cut funding to cities or states, as this would need approval from Congress. Additionally, the federal government can only strip funding that is related to the policy involved. Additionally, the federal government cannot use threats of cuts as a form of coercion for making entities comply with the demands of the federal government.

Despite multiple case law explicitly expressing the limitations on funding cuts that the President or federal government can make, this has not stopped President Trump from making such threats. An executive order was signed that paves the way to cutting funds from Sanctuary Cities, which Berkeley identifies as. Separately, President Trump made a threat on Twitter to cut all federal funding to UC Berkeley.

Russian Communications

During the 2016 campaign, Donald Trump held a press conference where he explicitly called upon Russian hackers to target Hillary Clinton's emails. Documents from the Democratic Party were leaked in what US intelligence agencies report to have come from Russia. At the same time, Trump's then campaign manager, Paul Manafort, was accused of accepting millions of dollars for representing Russian interests in the Ukraine and United States.

During the Trump Presidency, it was revealed that at least two top officials that were nominated/appointed by Trump had communications with Russians during the election. National Security Advisor General Michael Flynn was forced to resign after it emerged he had lied about the content of his conversations with Russian Ambassador to the US Sergei Kislyak. More recently, Attorney General Jeff Sessions lied in a testimony under oath as to whether he had communications with Russian authorities during the 2016 election.

Undermining Freedom of the Press

A prominent feature of the First Amendment is the Freedom of Press. But the media has been consistently oppressed and undermined by Donald Trump in both the campaign and his Presidency. From insulting and mocking journalists with disabilities to describing any media outlet that does their journalist duties of asking the tough questions as "fake news", Trump has continuously made attempts to silence and discredit the media.

What is more alarming is President Trump's repeated accusations of the media being the enemy of the American people. On February 24, major media outlets including the New York Times, CNN, and BBC, were barred from attending a press briefing.

National Security Risks

While there may be nothing legally wrong with President Trump's lack of attendance at security briefings, it does raise concerns about the President's ability to handle international crises. The use of Twitter as a medium for communication of off-the-cuff comments have raised eyebrows in multiple countries, including Mexico, Australia, Sweden, and China. Such diplomatic hiccups weaken the US's standing on the international community.

A potential breach in national security took place during an open meeting between President Trump and Japanese Prime Minister Shinzo Abe at Trump's Mar-A-Lago Resort. Both leaders were notified of a missile launch by North Korea in front of guests instead of a private, confidential setting, potentially compromising details regarding a national security incident.

Abuse of Executive Powers

On multiple occasions, President Trump has used his powers as a bully pulpit. His comments that millions of Americans voted illegally in the 2016 election without being able to provide a single shred of evidence to back up such ludicrous claims serves only to undermine the democratic process.

When the check and balances of American government went into play when the courts overturned an executive order banning travel from seven Muslim-majority countries, President Trump lashed out against the judicial branch and attempted to discredit the judges and ruling. When he did not get his way, he instead circumnavigated the system by signing a very similar executive order.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Jesse Arreguin, Mayor 510-981-7100

Attachments:

1: Resolution

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

IN SUPPORT OF A CONGRESSIONAL INVESTIGATION TO IMPEACH PRESIDENT
DONALD J TRUMP

WHEREAS, the following clauses provides a written testimony to some of the various abuses, violations, and scandals committed by United States President Donald J. Trump; and

WHEREAS, Article 1, Section 9, Clause 8 of the US Constitution – the Emoluments Clause – states that "no Person holding any Office of Profit or Trust under [the United States] shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State"; and

WHEREAS, this clause is interpreted as an anti-bribery provision, which would prevent business deals being made between a company owned by an elected official and a foreign government; and

WHEREAS, an emolument covers a broad range of financial benefits, including but not limited to monetary payments, purchase of goods and services, subsidies, and tax breaks; and

WHEREAS, after the November 2016 election, leading constitutional scholars warned the then President-elect that unless he fully divests from his business and sets up a blind trust, he would be in violation of the Constitution; and

WHEREAS, on January 11, 2017, President-elect Trump announced he would stay out of day-to-day operations, but not stop emoluments from foreign governments; and

WHEREAS, on January 20, 2017, Donald Trump was sworn in as President of the United States; 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 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, on January 28, 2017, President Trump signed an executive order establishing a travel ban from seven Muslim-majority nations (he did not ban Muslim-majority nations he has business dealings with, such as Saudi Arabia); and

WHEREAS, after his executive order was overturned, he attempted to undermine the powers of the Judicial Branch of government by discrediting the verdict and the judges who made the ruling, and ultimately circumnavigated the ruling by declaring a new executive order on March 6, 2017 that contained many concerning elements of the original travel ban; and

WHEREAS, on February 2, 2017, President Trump abused his power by threatening to unilaterally cut funding to UC Berkeley; and

WHEREAS, federal ethics rules were violated on February 9, 2017, when Kellyanne Conway, Counselor to the President, promoted First Daughter Ivanka Trump's clothing line in an interview from the White House; and

WHEREAS, on February 11, 2017, President Trump hosted Japanese Prime Minister Shinzo Abe at the Mar-A-Lago resort, owned by his company; and

WHEREAS, during this visit, classified information about a recent missile test by North Korea was discussed in an open, non-confidential setting, which jeopardized national security; and

WHEREAS, President Trump has nominated/appointed at least two major officials who have had prior communications with Sergei Kislyak, the Russian Ambassador to the US - National Security Advisor Michael Flynn and Attorney General Jeff Sessions; and

WHEREAS, General Flynn was forced to resign from his position after being found to have lied about the content of conversations he had with Russian authorities; and

WHEREAS, then Senator Sessions lied in a testimony under oath as to whether he had communications with Russian authorities during the 2016 election; and

WHEREAS, the above violations and abuses undermine the integrity of the Presidency.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby calls upon the United States House of Representatives to support a resolution authorizing and directing the House Committee on the Judiciary to investigate whether sufficient grounds exist for the impeachment of Donald J. Trump, President of the United States, including but not limited to the violations listed herein.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congresswoman Barbara Lee.

