



SINCE 1989

Alexandra Snyder, Esq.
CEO
Catherine W. Short, Esq.
Chief Legal Counsel
Mary Riley
Chief Financial Officer
Allison K. Aranda, Esq.
Senior Staff Counsel

Board of Directors

John R. Streett, Esq.
Chairman
Jude C. David, Esq.
Gellert Dornay
Christian Hon
David Shaneyfelt, Esq.
Terry L. Thompson, Esq.
Colette Wilson, Esq.

Advisory Board

The Hon. Steve Baldwin
San Diego, California
Dr. John C Eastman
Claremont Institute
The Rev. Joseph D. Fessio, SJ
San Francisco, California
Robert P. George
Princeton University
The Hon. Ray Haynes
Riverside, California
James Hirszen, Esq.
Riverside, California
The Hon. Howard Kaloogian
Los Angeles, California
David Llewellyn, Esq.
Sacramento, California
Anne J. O'Connor, Esq.
New Jersey
Ben Stein, Esq.
West Hollywood, California
Andrew Zepeda, Esq.
Beverly Hills, California

Northern California
(Administration)
P.O. Box 2105
Napa, California 94558
(707) 224-6675

Southern California
P.O. Box 1313
Ojai, California 93024
(805) 640-1940

www.LLDF.org

October 17, 2022

City of Temecula
Peter Thorson, City Attorney
Aaron Adams, City Manager
41000 Main Street
Temecula, CA 92590

Sent via email: pthorson@rwglaw.com, aaron.adams@temeculaca.gov

RE: *Councilwoman Alexander’s Proposed Resolution to Oppose Proposition 1*

Dear Sirs:

On Tuesday, October 11, 2022, Temecula City Councilwoman Jessica Alexander, pursuant to the “Agenda Placement by Council Members” policy (“Agenda Placement Policy” attached hereto as Exhibit A), properly proposed an agenda item for a future city council meeting that requested “council vote to create a resolution to oppose Prop 1.”¹ The text of Proposition 1 is attached hereto as Exhibit B.

In response, at the same City Council meeting, Councilwoman Alexander was informed by Temecula City Attorney, that this item would “be up for consideration after December 27th of this year under our agenda setting procedures and rules.” The City Manager then incorrectly stated that the agenda policy contains a “cooling off period” which precludes bringing up any other agenda item “on the topic of abortion.”

A. COUNCILWOMAN ALEXANDER’S RESOLUTION RELATED TO PROPOSITION 1 IS NOT BARRED BY THE CITY OF TEMECULA’S AGENDA PLACEMENT POLICY.

As set forth below, the agenda placement policy precludes the “same agenda item” from being reintroduced. For very good reason, it does not preclude introduction of any and all agenda items on the same “topic.”

¹ The October 11, 2022, City Council meeting was video-recorded and can be viewed on the City’s website. All references to statements made during the meeting maybe viewed in the video.

Thus, Councilwoman Alexander’s proposed resolution related to Proposition 1 is not barred by the City of Temecula’s Agenda Placement Policy.

On September 28, 2021, the City Council approved an official policy entitled “Agenda Placement by Council Members.” See Exhibit A. Said policy sets forth the procedure by which Council Members may request an item be placed on the agenda. Said policy states:

Recurring Requests. Requests by Council Members to add **the same agenda item** to every subsequent agenda are not permitted. **An item** may not be reconsidered for placement for a minimum of three (3) months unless approved by a majority vote of the City Council. [emphasis added]

1. THE CITY OF TEMECULA’S AGENDA PLACEMENT POLICY ONLY PRECLUDES THE SAME AGENDA ITEM FROM BEING REINTRODUCED.

The Agenda Placement Policy, does not broadly preclude ALL proposed agenda items that fall within similar “topics.” Rather, it merely precludes the **same agenda item** from being reintroduced. By way of example, Councilwoman Alexander would not properly be permitted to reintroduce her proposed agenda item to make Temecula a “sanctuary city for the unborn” until after December 27, 2022. Councilwoman Alexander made no such request at the October 11, 2022, meeting. Councilwoman Alexander’s proposed resolution that “the City Council of the City of Temecula opposes Proposition 1” is wholly unrelated to her previous proposed resolution that “the City Council of the City of Temecula supports the sanctity of human life.”

Despite the clear distinction between the two proposals, at the October 11, 2022, City Council meeting, both the City Attorney and the City Manager misinterpreted the unambiguous language of the agenda placement policy, implying that any proposed agenda item “on this subject” and “related to” and “on the topic of” any previously proposed agenda item could not be considered before December 27, 2022. The City Attorney and City Manager’s broad reading of the agenda placement policy defies all logic and is a blatant attempt to squelch Councilwoman Alexander’s proper ability to bring **any** agenda item even remotely related to abortion, for three months.

The absurdity of the City Manager and City Attorney’s misinterpretation of the agenda placement policy becomes clear when taken in a more neutral context. If the City Attorney and City Manager’s interpretation is correct, then a Council Member who proposes an agenda item related to crime in the City of Temecula cannot bring forth ANY OTHER proposed agenda item related to crime in the city for three months. That is not what the

unambiguous language of the agenda placement policy says. The language says that the same agenda item (such as the “sanctuary city for the born” proposal) cannot be reintroduced within a three-month time period. See Exhibit A.

2. COUNCILWOMAN ALEXANDER HAS NOT PREVIOUSLY PROPOSED A RESOLUTION ON PROPOSITION 1.

At the October 11, 2022, meeting, Councilwoman Alexander properly made a specific “request for placement,” pursuant to the agenda placement policy, that a future agenda item be placed before Council. Specifically, Councilwoman Alexander proposed that the “council vote to create a resolution to opposing Proposition 1.” Councilwoman Alexander has not previously proposed that “same agenda item.” Thus, the proposal was properly before the Council at the October 11, 2022 meeting.

The time-sensitive proposed resolution should have been dealt with in accordance with the Agenda Placement Policy. The misguided and blatantly false comments of the City Attorney and City Manager, however, led the Council to ignore Councilwoman Alexander’s request. The Council must properly consider adding Councilwoman Alexander’s proposed agenda item to the next future agenda, as they should have on October 11, 2022.

3. PROPOSITION 1 GRANTS A CONSTITUTIONAL RIGHT TO REPRODUCTIVE FREEDOM AND DOES NOT RELATE EXCLUSIVELY, OR EVEN PRIMARILY, TO ABORTION.

Assuming arguendo, that the City Manager and City Attorney’s sweeping interpretation of the agenda placement policy is accepted by the Council, and that Councilwoman Alexander is somehow barred from proposing any additional agenda items related “solely to abortion,” this proposed agenda item asking the City Council to oppose Proposition 1 is still not precluded.

Proposition 1 does not grant a constitutional right to abortion (See Exhibit B); it states that the government may not “deny or interfere with an **individual’s reproductive freedom** in their most intimate decisions.”. The constitutional amendment includes the word abortion, but also mentions contraception - thus proving the point that this is not a constitutional amendment protecting the right to abortion. It is much more than that. It grants a constitutional right to “reproductive freedom.”

No court or legislature in California, or even the proposed amendment itself, have defined what “reproductive freedom to our most intimate decisions” includes, or excludes, so it would be astonishing if the City Attorney could definitively say that Proposition 1

exclusively relates to a constitutional right to abortion. And, as we have no legal guidance regarding what reproductive freedom includes or excludes, why shouldn't the City Council of the City of Temecula consider whether the City opposes instituting a completely vague and undefined constitutional right? Frankly, every city should be considering the same thing. The very foundational integrity of our state constitution is at stake with Proposition 1 and voters only see the red herring "abortion" and "contraception," and they are ready to vote it in not even knowing that it is completely undefined by law.

As I mentioned during my comments to the City Council on October 11, 2022, the expansive language of Proposition 1 creates a constitutional right to obtain children by purchasing eggs, sperm, and surrogacy services without "interference" from state regulation. Laws regulating underage girls selling their eggs, laws regulating sex change surgery for minors without parental consent, and laws against incest, polygamy, and sex between adults and minors would ALL vanish if this new broad constitutional right to reproductive freedom passes.

Perhaps for the first time in our nation's history, voters are about to enshrine in our state constitution a vague and completely undefined constitutional right. It now appears that the California Constitution is so fluid that we can just make it up as we go along. Councilwoman Alexander's proposed agenda item "to oppose Proposition 1" is absolutely not precluded by the agenda placement policy. Her proposed agenda item relates more to the integrity of our constitution, and to the broad and undefined definition of reproductive freedom, than it relates to abortion.

California has had abortion enshrined in its constitution since 1969 and Proposition 1 has very little to do with abortion. See *People v. Belous*, 71 Cal.2d 954 (1969). In fact, in an L.A. Times article on June 28, 2022, renowned Constitutional scholar and Dean of UC Berkeley School of Law, Erwin Chemerinsky stated that because support for abortion rights is so strong in California, the proposed constitutional amendment is ["more symbolic than anything else."](#) This is not an issue of abortion, this is an issue of honoring the constitution of our state by opposing a completely undefined constitutional right.

B. THE COUNCIL'S UNANIMOUS ACTION TO TRACK/SUPPORT/OPPOSE ABORTION RELATED LEGISLATION IS COMMENDABLE, BUT IN NO WAY RELEVANT TO THE AGENDA PLACEMENT POLICY.

In an October 14, 2022, email to Councilwoman Alexander, the City Manager stated (as if it were somehow relevant to the agenda placement policy), "Further, the City Council took a separate action two meetings ago that was unanimously approved to bring the topic of tracking/supporting/opposing abortion related legislation during the regular meeting of the

City Council in January 2023. This annual meeting is where the City Council approves its [sic] legislative platform for related items for the next 12 months. Again, the City Council agreed to revisit this specific topic during that time and you and your colleagues will have an opportunity to set the legislative priorities for the City during that meeting.”

The Council’s action to address the topic of “tracking/supporting/opposing abortion related legislation” at a subsequent Council meeting in 2023 is wholly unrelated to the agenda placement policy and has no bearing on the propriety of Councilwoman Alexander’s requested proposal to oppose Proposition 1 (an item on the ballot during the November 2022 election).

First, a proposed resolution to oppose a specific ballot proposition has nothing to do with the legislative policy of the City of Temecula. Councilwoman Alexander’s proposed resolution is not an ordinance. It is merely a request that the City of Temecula voice its stance on a ballot measure, as it has appropriately done so in the past. On August 9, 2022, the City of Temecula passed Resolution 2022-60 supporting Proposition 26 and Resolution 2022-61 opposing Proposition 27 (Attached hereto as Exhibit C).

Secondly, and for all the reasons set forth above, the Council’s decision to consider abortion related legislation in the future does not preclude consideration of a resolution to oppose Proposition 1. Proposition 1 does not grant an exclusive right to abortion but rather, grants a constitutional right to reproductive freedom in our most intimate decisions. The two agenda items are separate and distinct. Mr. Adams comments regarding the Council’s intent to track abortion legislation are confusing, irrelevant, and immaterial to Councilwoman Alexander’s Proposition 1 agenda item placement request and the agenda placement policy.

The Temecula City Council has a legal obligation to properly consider Councilwoman Alexander’s proposed agenda item to place a “Resolution to oppose Proposition 1” on the city council agenda, as it was required to do at the October 11, 2022, meeting. The request should have been voted on at the October 11, 2022, meeting so that the resolution could be up for discussion at the October 25, 2022. The City Attorney and City Manager misled and deceived the Council and thereby violated the Agenda Placement Policy.

Councilwoman Alexander’s proposed agenda item was a new and unique agenda item, unrelated to the “sanctuary city for the unborn” agenda item, and this new agenda item was not blocked by the “agenda setting procedures and rules.” It is clear that the only reason that the City Attorney and the City Manager did not provide accurate legal advice to the Council on October 11, 2022, was to obfuscate a vote to place the item on the agenda for the next city council meeting, which would have taken place prior to the vote on Proposition 1. Such blatant political gamesmanship is disgraceful, unethical, and quite possibly actionable in a court of law.

To be clear, the only remedy is to put the proposed resolution to oppose Proposition 1 on the agenda for the next city council meeting scheduled for October 25, 2022. I look forward to your prompt response.

Respectfully,



Allison K. Aranda
Senior Staff Counsel
Life Legal Defense Foundation
PO Box 890685
Temecula, CA 92589
Phone: 707-227-6744
Fax: 951-541-2711
Email: akaranda@lldf.org

On Behalf of:

Jessica Alexander, Temecula City Councilwoman

Theresa Brennan, President/Executive Director Right to Life League