

## **Statement Issued by Albuquerque City Council President Dan Lewis**

October 7, 2013

As the President of the Albuquerque City Council, last week I denied a request to place a yet to be introduced resolution, R-13-250, on the October 9th Council meeting agenda for immediate action. I also denied a request to hold the bill over until the October 21st Council meeting. I'd like to take a moment to explain why I came to that decision.

R-13-250 would direct Albuquerque's city attorney to hire legal counsel to ask a judge for a ruling to stop the November 19th special election on the Pain Capable Unborn Child Protection Ordinance. While I have great respect for the sponsor of this bill and for the request for immediate action, as President of the City Council I did not agree that this bill met the emergency threshold provided in our City Charter and Rules of Procedure for immediate action. Actually, quite the contrary.

R-13-250 short circuits the democratic process. Whether you agree with them or not, the organizers of this initiative have played by the rules and have followed all of the City's laws and requirements, and under those laws they are entitled to an election. Actions by the Council that would deny this election, that would disenfranchise voters, and that would limit voter initiative rights under the City Charter deserve more time and consideration by the Council, not less.

Opponents of the Pain Capable Unborn Child Protection Ordinance have speculated at great length about the constitutionality of the Ordinance. Unfortunately, that is just what those thoughts are – speculation. Any attorney or judge that is faced with a before the fact request for a declaratory ruling would only be speculating on what the courts, especially the Court of Appeals and Supreme Court, would ultimately decide. The question of the constitutionality of the ordinance should be decided by the courts only if the law is passed by the voters and if the law is challenged.

I would argue, however, that the question of constitutionality is not as clear cut as many say it is. States and municipalities can and have enacted restrictions on abortions, and there are currently 40 states that have some restrictions in place on behalf of the unborn child. The argument that essentially claims the unconstitutionality of anything that bans or regulates abortion prior to 23-24 weeks, or wherever some say viability starts, is baseless.

In the City of Albuquerque, we follow a democratic process. Our citizens have done the work to place the ordinance on the ballot. The City Council has already acted and set the special election date for November 19th. Now it is time to leave the question in the hands of Albuquerque's voters. Regardless of where nine city councilors stand on the issue, we must follow our own city laws and allow this question to go before the voters of the City of Albuquerque who have earned that right.

Please feel free to call me if you have any questions.

Dan Lewis