

June 16, 2025

Mayor & Councilmembers
City of Albany, Texas
425 S. 2nd St.
Albany, TX 76430

RE: City Council Meeting Agenda and Procedures

Dear Mayor & Councilmembers:

I write on behalf of my client, Right to Life Across Texas, and concerned citizens of Albany, to clarify an apparent misconception regarding authority to set the agenda for meetings of the City Council.

Contrary to representations made recently by the Mayor, the mayor of Albany has no special legal authority over the agenda. Rather, pursuant to Texas law, the Council as a body determines its rules of procedure, and the Council has not ceded its authority to the mayor. Rather, pursuant to state law and the common practice of cities across Texas, councilmembers have the same authority as the mayor to propose items for the agenda. If such requests are ignored by the mayor, the matter may be taken up, if necessary, in a council meeting, with or without the mayor's consent.

In most cities, absent specific rules otherwise, items are added to the council agenda upon the request of a councilmember. An example request by a council member to the mayor or city manager would be, as follows:

I request that the proposed "Ordinance Outlawing Abortion, Declaring Albany a Sanctuary City for the Unborn" be added to the next council agenda for the purpose of consideration and to take action.

While such a request should be sufficient, if the request is ignored, there is still a way for an ordinance to be added to the agenda for consideration and action. In the absence of specific rules otherwise, default rules of parliamentary procedure dictate that any member may move to add an item to the agenda, which, if seconded, can be adopted upon a majority vote.

Albany is a Type-A general law municipality. Texas law states that “[t]he governing body” of the municipality—here the City Council—“shall determine the rules of its proceedings.” Tex. Loc. Gov’t Code § 22.038(c). In other words, the statute clearly empowers the body as a whole, rather than just the mayor alone, to determine how to conduct its meetings. It appears that the current Council has not yet adopted a comprehensive set of rules, but consults the Texas Municipal League’s Handbook for Mayors and Councilmembers (2024) (“TML Handbook”).¹ Whether one consults the Local Government Code alone or the TML Handbook, it is clear that the mayor has no unilateral authority to keep items off of the agenda.

Looking first just to the terms of the statute, no substantive rules are prescribed, but § 22.038(c) vests the City Council as a body with authority to determine its procedural rules. Accordingly, unless the City Council has actually adopted a rule expressly giving the mayor unilateral authority to control the agenda or some other special authority over the agenda, she has no such authority.

It appears the Council has not, at least not presently and not in recent memory, adopted any comprehensive set of rules governing meeting procedures, but consults the TML Handbook. As the Handbook states (p. 40), most cities use Robert’s Rules of Order. Under Robert’s Rules, any council member may move to add an item to the agenda, and if the motion is seconded, it shall be put to a vote. If a majority approves, the item is added to the agenda.

The Handbook itself also contains a section discussing the “Role of the Mayor as Presiding Officer.” TML Handbook at 42-43. As shown there, the mayor has no unilateral authority to thwart the will of a council majority or to refuse to entertain valid motions from members. The Handbook explains that if the mayor refuses to recognize a motion, such decision is subject to immediate parliamentary appeal, and “[a] simple majority vote is all that is required to overrule the mayor’s decision on procedural issues.” Any councilmember may, therefore, move to add an item to the agenda, and is entitled to be heard on such motion. If there is a second, then the Council shall vote and a majority may add the item. Should the mayor refuse to recognize the motion or an appeal from such refusal, the council as a body may still proceed to consider the matter. TML Handbook at 43 (“If an appeal from the decision of the chair is made immediately following the ruling, it is not out of order. If the mayor refuses to honor the appeal, the person making the appeal could then state the question, suggest limited debate, and then put the question to a vote.”). *See also* TML Handbook at 17 (“The mayor rules on questions of procedure at council meetings, and those rulings are binding *unless successfully challenged by a majority of the governing body.*”) (emphasis added).

The notion of a mayor with preclusive powers over the City’s agenda is further refuted by the basic role of a councilmember under Texas law, again as summarized

¹ <https://www.tml.org/186/Handbook-for-Mayors-and-Councilmembers>

in the TML Handbook. “Councilmembers are the city’s legislators. ... Unless restricted by state law, each councilmember is entitled to vote on every question presented at a council meeting, and has full parliamentary privileges in council meetings—including the right to speak and make motions when recognized by the chair *and the right to introduce new ordinances and amendments to existing ones.*” TML Handbook at 25 (emphasis added).

Any councilmember may make a motion for the proposed Albany Sanctuary City for the Unborn ordinance to be placed on the city council agenda at any time during the meeting. The following is an example of such a motion:

I make a motion for the proposed “Ordinance Outlawing Abortion, Declaring Albany a Sanctuary City for the Unborn” to be added to the next council agenda for the purpose of consideration and to take action.

Our state legislature has made clear that political subdivisions, like Albany, can pass local laws further prohibiting abortion. Tex. Gov’t Code § 311.036(b), states, “A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.” In addition to this, Tex. Gov’t Code § 2273.005 also states, “This chapter may not be construed to restrict a municipality or county from prohibiting abortion.”

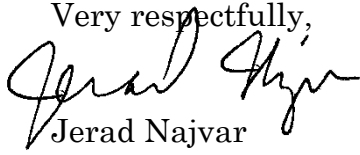
A letter signed by twenty Texas Senators and Representatives, which has been given to the City of Albany, encourages the consideration and passage of these local ordinances addressing loopholes in our state abortion laws, stating,

Currently there are over 50 political subdivisions in Texas which have passed local ordinances prohibiting abortion within their jurisdictions. As elected officials who voted for state legislation allowing these local actions, we are thrilled to see this wave of pro-life action at the local level and hope to see these ordinances continue to spread across our state – even in a post-Roe Texas. While it is true that abortion is outlawed in the entire State of Texas, from the point of conception, our work is far from over. Right now, throughout the State of Texas, women are being trafficked across our borders by abortion traffickers funded by abortion trafficking organizations still operating in our state. As a result, these women are being abused and traumatized by abortion across our Texas–New Mexico border and sent back to Texas for our cities and counties to deal with the aftermath taking place in our homes, our schools, our churches, and our hospitals. The Sanctuary for the Unborn ordinances seek to protect these institutions by putting safeguards in place to protect men, women, and their children for years to come. These ordinances, which seek to close as many loopholes as possible, do not penalize women who seek or undergo abortions, but places the penalty on the party who most deserves it – the abortionist and the industry profiting

from the unjust procedure, including abortion traffickers.

Please advise if you require any further information.

Very respectfully,

A handwritten signature in black ink, appearing to read "Jerad Najvar". The signature is fluid and cursive, with the first name "Jerad" and last name "Najvar" clearly distinguishable.

Jerad Najvar