

RESOLUTION NO. 2009-067

Adopted by the Sacramento City Council

February 3, 2009

CITY OF SACRAMENTO AMICUS SUPPORT OF PETITIONS BEFORE THE CALIFORNIA SUPREME COURT CHALLENGING THE CONSTITUTIONALITY OF PROPOSITION 8

BACKGROUND

- A. On May 15, 2008, the California Supreme Court issued its decision in *In re Marriage Cases*, 43 Cal. 4th 757 (2008), and held that the provisions of the California Family Code that limited marriage to a man and a woman violated the rights of gay and lesbian individuals and couples to equal protection, privacy and due process under the California Constitution.
- B. The City of Sacramento joined as an amicus in the *In re Marriage Cases* in support of those challenging the constitutionality of the provisions of the California Family Code.
- C. On November 4, 2008, the voters approved Proposition 8, an initiative measure that amended Section 7.5 of Article I of the California Constitution to read:

Only marriage between a man and a woman is valid or recognized in California.
- D. Following the passage of Proposition 8, a series of petitions challenging the constitutionality of Proposition 8 and its amendment of Section 7.5 of Article I of the California Constitution were filed with the California Supreme Court. The California Supreme Court has agreed to hear these petitions in the first instance, and the cases are known and referred to as "The Proposition 8 Cases." The petitions challenge the constitutionality of Proposition 8 on various grounds, including that the amendments constitute a revision, rather than amendment, of the California Constitution, and the proper procedures for revising the California Constitution (which require involvement of the legislature or a constitutional convention) were not followed; and that Proposition 8 violates the separation of powers doctrine under the California.
- E. A number of California cities and counties have joined as amicus curiae in support of the petitions challenging the constitutionality of Proposition 8.

- F. The City of Sacramento has a long history of supporting diversity and inclusion and domestic partnerships, and opposing discrimination on the basis of sexual orientation. This includes the prohibition on discrimination based on sexual orientation found in Chapter 9.20 of the City Code, first enacted in 1986; the prohibition on discrimination against victims of AIDS and AIDS-related conditions found in Chapter 9.20 of the City Code, first enacted in 1987; and the domestic partnership program found in Chapter 2.120 of the City Code, first enacted in 1992.
- G. It is therefore appropriate that the City seek to join the other California cities and counties as amicus curiae in support of the petitions challenging Proposition 8.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

The City Attorney's Office is directed to take the necessary steps before the California Supreme Court to enable the City of Sacramento to join as amicus curiae with the other California cities and counties that have filed an amicus brief supporting the petitions challenging Proposition 8 on constitutional grounds.

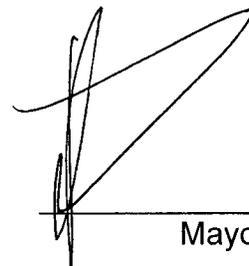
Adopted by the City of Sacramento City Council on February 3, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, and Mayor Johnson.

Noes: Councilmember Waters.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:


Shirley Concolino, City Clerk