



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Council Business

AGENDA ITEM NO.: 2

DATE: February 19, 2019

TO: City Council

FROM: Stephen Fischer
City Attorney

SUBJECT: Letter Opposing Gun Shows at Ventura County Fairgrounds. (5/10/10)

CONTACT: Stephen Fischer, City Attorney
Stephen.Fischer@oxnard.org, (805) 385-7483

RECOMMENDATION:

That City Council approve and authorize the Mayor to sign a letter requesting the Ventura County Fairgrounds Board of Directors cease contracting for new gun shows at the Fairgrounds and pursue any legal or legislative remedies as may be necessary for this cessation; and transmit such letter and communicate the Council position to the Board of Director and State and regional officials.

BACKGROUND

At the City Council meeting held on January 8, 2019, Mayor Pro Tem Ramirez requested, and a majority of the Council concurred, that an item be considered on a future Council agenda regarding gun shows at the Ventura County Fairgrounds. The specific consideration was whether to send a letter to the Ventura County Fairgrounds Board of Directors requesting that Board to cease contracting for additional gun shows at the Fairgrounds. Mayor Pro Tem's request was prompted in part by recent discussions resulting in similar action being taken by the Ventura County Board of Supervisors.

Attached to this agenda report are (1) a May 27, 2018 San Diego Union Tribune article describing the issues and history surrounding gun shows at publicly-owned properties in California, (2) a January 22, 2019 San Diego Union Tribune article reporting on a recently filed lawsuit challenging the cessation of gun shows at the Del Mar Fairgrounds, and (3) a draft letter to the Ventura County Fairgrounds Board of Directors President based on materials received from the County of Ventura.

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STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

FINANCIAL IMPACT

None.

Prepared by Stephen Fischer, City Attorney

ATTACHMENTS:

Union-Tribune re Gun Show Controversy History.052718

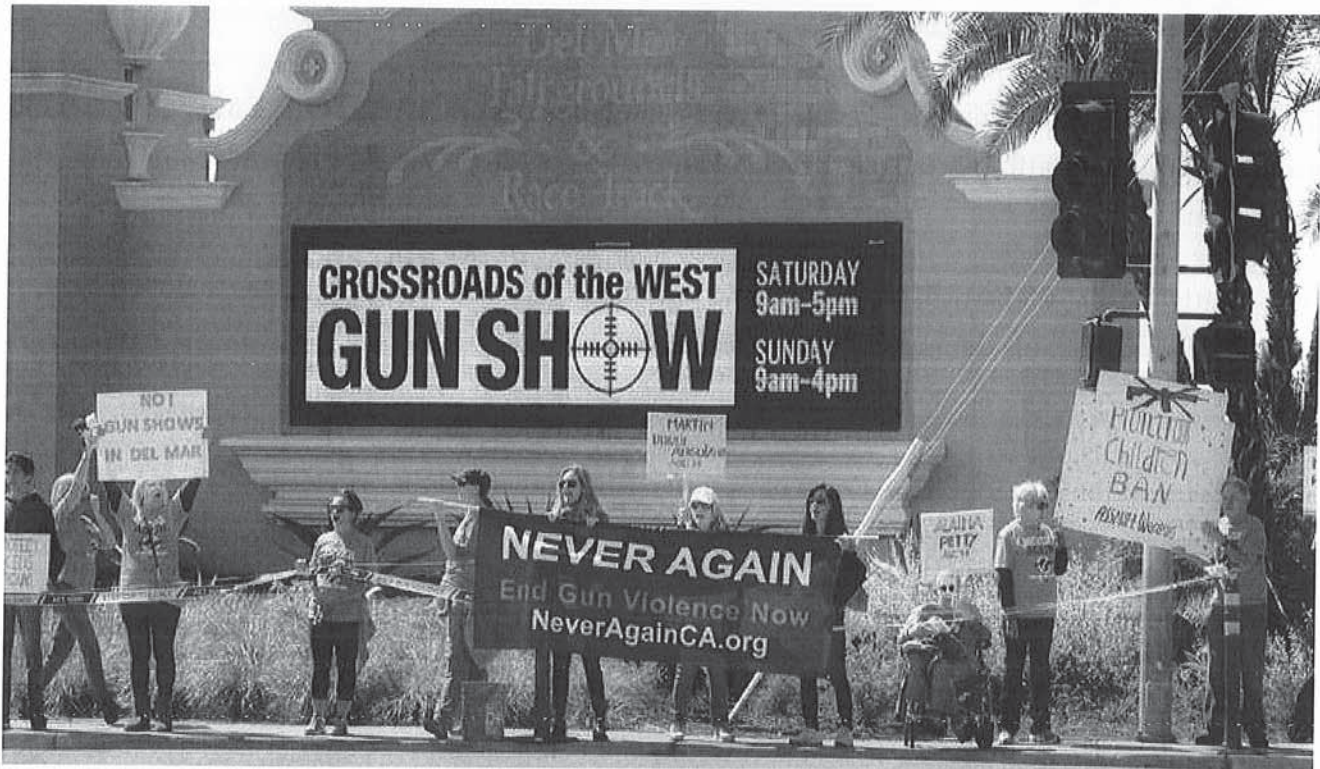
Union-Tribune re Gun Show Lawsuit.012219

Letter to Ventura County Fairgrounds Board Opposing New Gun Shows.021919

CORRESPONDENCE- Gun Shows 2.5.19

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Push to ban gun shows has long, tangled history in California



About 100 supporters of NeverAgainCa protested outside the Del Mar Fairgrounds against the Crossroads of the West Gun Show in March. (Howard Lipin/U-T)



By Kristina Davis

MAY 27, 2018, 5:00 AM

When a Bay Area county decided to pass a law that effectively banned gun shows from its fairgrounds, it sparked one of the nation's longest running legal battles over the right to bear arms.

In the end, the county conceded and the gun shows were allowed to resume under stricter rules, leaving some of the central constitutional questions around the issue unsettled.

Once again, gun shows at publicly-owned convention centers and fairgrounds are being targeted for expulsion around the state. And the legal roadmap is no less clear.

History around such efforts shows a mix of outcomes, marked at times by a lack of political support for such bans and protracted litigation ending in shrugs. And renewed pushes for gun show bans — from Del Mar to the Bay Area — would seem to face similar uncertainty.

“They are stepping into a lion’s den here of potential litigation over this,” said Chuck Michel, a prominent gun rights attorney in Long Beach and president of the California Rifle and Pistol Association.

The potential for a court battle is weighing heavily on the Del Mar Fairground’s board of directors, who will be officially considering the issue in September.

They are aware of the drawn-out Alameda County case that bounced around the courts for 12 years before ending at the U.S. 9th Circuit Court of Appeal cost millions of dollars in legal fees.

“We can’t afford to have that kind of fight on our hands,” said Stephen Shewmaker, president of the fairground’s board of directors.

Culture clash

Just about every weekend of the year, a gun show can be found in a fairground or convention center somewhere in California.

Last weekend it was here, one of five annual events run by Crossroads of the West Gun Show at the Del Mar Fairgrounds. It’s come for the past 28 years.

Next weekend it will be in Costa Mesa at the OC Fair and Event Center, and the weekend after that at Daly City’s Cow Palace fairgrounds.

The shows draw thousands of gun enthusiasts and their families who plop down money for parking and entrance fees. Shoppers roam booths selling firearms, of course, but also ammunition, holsters and scopes next to used books, jewelry, leather goods and posters. You can find tips on American flag etiquette and gun safety classes and Second Amendment causes.

In many ways, California gun shows are markedly different than others across the country. Most notably, no one heading home with a new gun in hand.

California law requires gun show sales to follow the same rules as gun shops: firearms transactions can only be made through federal licensed dealers, background checks are a must, and a 10-day waiting period to take possession of a newly purchased gun remains in place.

Gun shows have always drawn their detractors, but scrutiny intensified with Columbine — especially after it was discovered that two of the weapons used in the Colorado massacre were purchased by a friend of the shooters' from unlicensed sellers at a gun show in 1998.

The scrutiny — and frequency and deadliness of such indiscriminate mass shootings — has only increased since.

"This issue is a classic clash of cultures," said Donald Kilmer, who represented the gun show operators in the Alameda County case.

Promotion of the gun culture is what worries many gun control advocates the most, making gun shows a prime target.

"We are not opposed to gun shows, per se," said Carol Landale, president of the San Diego chapter of the Brady Campaign to Prevent Gun Violence, applauding California's stringent rules.

But Landale, who walked the aisles of Del Mar's gun show last weekend, said she was troubled by the children being exposed to a culture that revolves around violent weapons, as well as immediate safety concerns with the display of guns and knives and what she said seemed to be a lack of oversight.

"If we stop glorifying guns, it's one step in the right direction toward reducing gun violence," she said. "Obviously it's not the only step. It's complicated, so many things need to be done. But it's just one small effort that can help."

Despite California's strict rules governing gun shows, critics worry that the gatherings connect buyers and sellers who make unlawful, off-the-books gun transactions.

"We have to shut this down, our society is being ripped apart by this," said Rose Ann Sharp said of the nation's gun violence. The Del Mar resident, along with her husband, has spearheaded the most recent gun show ban effort. "It's the most natural place to start."

Gun rights advocates bristle at the characterization that they say demonizes gun owners.

"There are people frustrated with criminals and criminal activity who have made the headlines, and I totally understand that," said Michael Schwartz, CEO of San Diego County Gun Owners, a pro-gun political action committee that has waded into the Del Mar debate. "But they are taking it out on law-abiding people, and shutting down a gun show is not going to save a life and not going to prevent crime. All you do is send the message to a group of people exercising their rights telling them 'You are undesirable.'"

Michel, the attorney who specializes in Second Amendment law, noted many events are held on public property that don't match his values or viewpoints. "So what?" he said.

"This is classic viewpoint discrimination," Michel said. "Thousands and thousands of gun owners are law-abiding. Good citizen gun owners go to shows for entertainment, education, good deals."

A call for change

It's this polarized landscape that the state's 22nd District Agricultural Association, which oversees the Del Mar Fairgrounds, must navigate.

Calls for a gun show ban have grown increasingly louder over the past few years, and board meetings have recently drawn crowds from both sides who argue their points during spirited public comment periods.

The issue of a gun show ban is now set for official consideration on the September agenda, and a separate meeting eliciting public comment will likely be held to accommodate the oversized, impassioned crowd expected to attend.

Another, more immediate wrinkle has also surfaced. At a meeting last week, it was brought to the board's attention that the family who owns the Crossroads show has a felonious background of gun convictions.

Patriarch Bob Templeton, 79, who founded the show, was indicted in 1980 on charges of unlawful sales of firearms, making a false statement and aiding and abetting, according to a 1994 story in the Deseret News. The case involved the shipment of firearms to Mormons in South Africa.

Templeton pleaded guilty to one count of unlawfully selling a .38 caliber revolver out of state, was sentenced to probation and successfully petitioned to have his gun possession rights restored despite the felony conviction.

One of Templeton's sons, Jeff, 51, has more recent convictions involving possession of firearms by a drug addict.

He is no longer involved with the show, the elder Templeton said. To avoid conflicts with licensing, Templeton's daughter has been handed the responsibilities of running the show and signs the contracts, he said.

The fairground's chief executive has asked the state's Bureau of Firearms to investigate if the licensing rules had been followed. The board hopes to have an answer by the time the show swings through Del Mar again in July.

In Orange County on Thursday, uncertainty over the Templeton situation prompted the fairground board members to hold off on deciding whether to approve future contracts with Crossroads of the West until state investigators clear the licensing question. A broader debate about gun shows is also beginning to simmer there, and elsewhere.

In Santa Clara County, the county's board of supervisors this month approved an ordinance that would ban possession or sale of guns on county owned or leased property.

In the Bay Area, state legislators have drafted a bill that would ban the sale of gun and ammunition at the Cow Palace, a state-owned venue in Daly City.

"Our country is awash in guns, and schoolchildren are dying," Sen. Scott Wiener, D-San Francisco, said in his announcement Monday. "We need fewer guns, and we need to stop the proliferation of guns whose only purpose is to kill as many people as possible as quickly as possible. We should not have gun shows in the heart of the Bay Area. The Cow Palace gun shows should have ended a long time ago. Better late than never."

Complicated history

Such efforts have resulted in a tangled history of rulings and settlements.

In the late 1990s, Santa Clara County tried to ban gun shows on county land, but the federal 9th Circuit court in 1997 said the shows can remain under First Amendment protections for commercial speech — a past that makes the new ban all the more interesting.

In 1999, Los Angeles County enacted an ordinance that barred gun and ammo sales on county property. Two lawsuits followed by the operators of the largest gun show in the nation, the Great Western Gun Show, held for years at the county fairgrounds.

The cases won in California Supreme Court with a 2002 ruling that said city and county governments have a right to ban gun shows on their property. But the ruling only clarified how to apply state law and could not address the federal questions being litigated in the matter at the same time elsewhere.

In 2003, L.A.'s four-year legal battle ended with a settlement, with the county agreeing to pay the show \$1.6 million while the ordinance remained intact.

Then there was the marathon litigation in the case filed against Alameda County by the Nordykes, gun show operators who were behind an earlier Santa Clara lawsuit.

A federal district court upheld Alameda County's 2009 law banning guns on its property, ruling that governments had the right to restrict firearms in "sensitive" places. But that was far from the end. The case pinballed repeatedly to the 9th Circuit for various considerations.

During a rehearing in 2012, the county did an about-face and told the 9th Circuit panel that gun shows would be permitted as long as the weapons were secured somehow, such as being tethered to tables.

The court found this to be an adequate solution and issued an opinion that said local government was allowed to add its own restrictions on gun shows as long as the rules weren't too onerous or infringing on civil rights.

The larger constitutional issues in the case, then, went undecided.

Attempts to ban gun shows at the Cow Palace have failed politically. The state Legislature approved two such bills in recent years but they were vetoed by Govs. Arnold Schwarzenegger and Jerry Brown.

A bill in 2004 fell short of required votes to get it past the Assembly.

Gun show bans have survived in other places, including San Mateo County and San Francisco — both Democratic-leaning communities.

The city of Glendale banned gun shows in 2013, and the small gun show that operated there found another venue rather than sue.

Yet another lawsuit resolved earlier this month appears to buoy local ability to restrict gun sellers, although it's a gun store case, not a gun show case.

The lawsuit was brought by three men stopped from opening a gun shop by an Alameda County law that prohibits new gun stores from being located within 500 feet of schools, bars, residential districts and other specific areas.

The 9th Circuit ruled 9-2 last year in the county's favor, saying the Second Amendment applies mostly to the right of gun owners, not gun sellers, and noted that the county's restrictions did not prevent the people from buying guns in the area.

On May 14, the U.S. Supreme Court declined to take up the case, leaving the 9th Circuit's ruling intact. It is another example of the nation's high court refusing to wade into the gun debate in the past several years.

While the gun show issue won't be heard in Del Mar until September, the board is doing its homework. That includes a request to the state Department of Justice to complete a legal analysis on the viability of a ban.

There's also the potential for some kind of compromise.

Shewmaker, the board's president, said board members in April asked gun show president Templeton to consider placing an 18-and-up age restriction on the gun show, as well as prohibit kits that provide the parts to build unregistered AR-15-style rifles, sometimes called "ghost guns."

Templeton's daughter, Tracy Olcott, told the San Diego Union-Tribune last week that barring children would do more harm than good because the shows provide positive exposure and education on how to safely be around guns with a supervised adult.

The San Diego County Gun Owners group is preparing for what they'd consider a worst-case scenario, doing some advance scouting for Plan B locations for future gun shows should they be banned at the

fairgrounds. Options are limited: the venue must be at least 80,000 square feet and offer 1,500 to 2,000 parking spaces.

Venues both private and public in the East County, Escondido and Indian reservations are all being looked at, said Schwartz.

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Gun show operators file lawsuit against board that oversees state-owned Del Mar Fairgrounds



Gun show supporter Rusty Shriver talks with opponent Rose Ann Sharp during a Del Mar Fairgrounds board meeting on April 24 (Union-Tribune file photo by K.C. Alfred)



By Phil Diehl

JANUARY 22, 2019, 6:50 PM

The family-owned company that operates the Crossroads of the West gun show filed a federal lawsuit Tuesday against the Del Mar Fairgrounds, challenging its suspension of the weekend event that has been held there for more than 30 years.

The 22nd District Agricultural Association board of directors, which oversees activities at the state-owned fairgrounds, voted to stop the shows after December until staff members develop a policy that could ban the sale and possession of firearms on the property.

Any decision in the case is likely to take years and have far-reaching effects.

Gun-show owners Russell and Ann Sallie Nordyke filed suit against Alameda County after it banned weapons from the public fairgrounds there in 1999. That case went on for more than 12 years and cost millions of dollars in legal fees before a settlement reached through mediation allowed guns if they were secured to exhibit tables with wire cables.

Crossroads holds its shows at more than a dozen large locations in four western states, all on public or city-owned property. It stages the two-day gun show at the Del Mar fairgrounds five times annually.

The Crossroads lawsuit filed in U.S. District Court in San Diego alleges that the moratorium violates the plaintiffs' First and Second Amendment rights, their civil rights, the right to commercial speech, and the right to assembly.

"Regardless of how you feel about guns, we operate within compliance of the law," said Tracy Olcott, president and general manager of B&L Productions, the owner of Crossroads of the West.

"We are heavily regulated, and gun shows in particular are more heavily regulated than brick-and-mortar stores," Olcott said Tuesday.

Fairgrounds General Manager Tim Fennell and board President Steve Shewmaker were unavailable for comment Tuesday.

One of the leading opponents of the show is Del Mar resident Rose Ann Sharp.

Sharp founded the local nonprofit NeverAgainCA as part of the national Never Again movement to stop gun violence after the Parkland, Fla., shootings that killed 17 high school students and staff members last year on Valentine's Day.

Sharp said Tuesday the lawsuit is premature because the fair board is still working on a study that will determine whether, and in what form, the gun shows might continue.

"The board did not, as Crossroads alleges, ban gun shows," Sharp said. "It directed fairgrounds management not to consider any contracts with producers of gun shows beyond Dec. 31 until .. the district has put into place a more thorough policy regarding the conduct of gun shows."

Sharp and others say events such as gun shows promote a culture of unnecessary weapons, resulting in a country with more firearms than residents and where violence is common. Supporters of the shows say they offer a place for like-minded people to gather safely, exchange ideas and learn more about their shared hobbies.

Members of NeverAgainCA demonstrated repeatedly outside the Del Mar gun shows last year and attended fair board meetings to call for an end to the shows.

Crossroads sent a "cease-and-desist" letter in October to NeverAgainCA ordering the nonprofit to stop making "defamatory" statements about the firearms festival and its owners.

In response, ACLU Legal Director David Loy sent a reply calling the Crossroads letter "a baseless attempt to intimidate Never Again from exercising rights protected by the First Amendment" and threatening to file a response under the state's anti-SLAPP (Strategic Lawsuit Against Public Participation) statute.

"The lawsuit Ignores ... that there is no harm to individual rights to buy guns because of the ready availability of gun stores, including at the numerous gun shows throughout the state on private property," Sharp said in an email.

NeverAgainCA members are helping local efforts to stop Crossroads shows in Orange County, Ventura, and San Francisco, but so far no other city or fair board has cancelled the shows.

Among the issues raised by NeverAgainCa were the past felony firearms convictions of gun show owner Bob Templeton and his son, Jeff Templeton, that would prevent them from operating the shows. However, Bob Templeton passed control of the show to his daughter, Olcott, and his son has not been involved with it for years.

The fair board sent a letter to the state Justice Department last year requesting an investigation of Crossroads. State officials have declined to confirm any investigation, and Olcott said recently they never contacted her about it.

Thousands of firearms enthusiasts attend each Del Mar gun show. Members of the San Diego County Gun Owners, a political action committee, have lobbied hard for the fairgrounds to continue the show.

The shows are a significant source of income for gun and ammunition dealers, and some of them are included as plaintiffs in the Crossroads lawsuit.

Plaintiffs include Barry Bardack, an El Cajon resident who says he buys bulk ammunition at the show for target shooting; Ronald J. Diaz, Sr., an Alpine resident who says he buys reloading supplies at the shows; Alpine resident and competitive shooter John Dupree; Carlsbad resident Christopher Paul Irick, who says he shops for bargains on firearms and accessories at the show; and Lawrence Michael Walsh, owner of Wholesale Ammunition, who has no physical store but who says he sells ammo to law enforcement officers and their agencies at gun shows across the state.

Other plaintiffs include the California Rifle & Pistol Association, South Bay Rod and Gun Club, and the Second Amendment Foundation.

Olcott said she hopes to find another venue in the San Diego area to continue the shows, but so far she's been unable to find anything that has the space that's available at the fairgrounds.

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Date *****

Ventura County Fairgrounds Board
ATTN: President Leslie Cornejo
10 W. Harbor Blvd.
Ventura, CA 93001

Oxnard City Council Request that the Fairgrounds Board Cease Contracting for New Gun Shows at the Ventura County Fairgrounds and Pursue Any Legal or Legislative Remedies Necessary for this Cessation

Dear President Cornejo:

I am writing today on behalf of the City Council of the City of Oxnard, who on February 19, 2019, took action to support a recommendation requesting the Ventura County Fairgrounds Board of Directors cease contracting for new gun shows at the Fairgrounds. Additionally, we are supportive of both legal and legislative efforts the Fairgrounds Board may pursue needed to implement this cessation.

Unfortunately, the United States has seen more gun violence per person than virtually every other modern industrialized country in the world. The tragic shooting in Thousand Oaks on November 7, 2018, that resulted in the deaths of 12 innocent people occurred just weeks before your Board voted to contract for two new gun shows in 2019. The Oxnard City Council is supportive of your efforts to pursue other types of revenue-enhancing events at the Fairgrounds.

We, as the elected representatives of the City of Oxnard, respectfully request your Board cease contracting for additional gun shows at the Ventura County Fairgrounds and pursue any necessary legal or legislative remedies to accomplish such action.

Should you have any questions, please feel free to contact me at (805) 385-7435 or tim.flynn@oxnard.org.

Sincerely,
Tim Flynn, Mayor
City of Oxnard

c: Governor Gavin Newsom
Ventura County State Delegation



Gun Violence

Steven Nash

Tue, Feb 5, 2019 at 5:02 AM

To: "tim.flynn@oxnard.org" <tim.flynn@oxnard.org>, "carmen.ramirez@oxnard.org" <carmen.ramirez@oxnard.org>, "bert.perello@oxnard.org" <bert.perello@oxnard.org>, "oscar.madrigal@oxnard.org" <oscar.madrigal@oxnard.org>, "gabriela.basua@oxnard.org" <gabriela.basua@oxnard.org>, Bryan MacDonald <bryan.macdonald@oxnard.org>, "vianeyforoxnard@gmail.com" <vianeyforoxnard@gmail.com>, Michelle Ascencion <michelle.ascencion@oxnard.org>

attn: City Clerk, please include this written correspondence in the 2-19-19 city council agenda packet. Thank you.

At the Forum on Gun Violence at Westlake High School we heard impassioned truth and justified rage from Susan Schmidt-Orfanos, mother of Telemachus, of one of the Borderline victims. I want to carry her anger forward because the time has come to say bullshit to the gun culture that has been foisted on us by amoral arms manufacturers, their public relations arm also known as the NRA, and the bought and paid for politicians whose only goal is the attainment and retention of power, influence and corporate bribes.

For too long we have been hoodwinked into believing in the sacred inviolability of the Second Amendment. Truth is, the Constitution has 27 amendments and those amendments have been interpreted by the Supreme Court many, many times. The Constitution and its amendments are exactly what we say they are at any given time by way of the Supreme Court's most recent decisions. As the Court changes membership, the interpretation of our Constitution and its amendments changes and this is as it should be.

Susan Orfanos lost one son and her life is forever sundered. Yet this happens to 40,000 families every year in the United States of America. Take a minute and read the biographies of the Borderline shooting victims. These people were among the finest in our community, cut down by an insane individual who was able to obtain the instrument of their death by a permissive and out of control gun culture. If you excuse this as the cost of preserving your Second Amendment right then you are complicit in this carnage.

There is simply no middle ground, especially if you are a politician. It is way beyond time for our politicians, at every level, to speak out against the insanity and demand that we will sacrifice no more innocent people to the gun.

A politician's primary goal should be to ensure that every American has been afforded their "unalienable rights". The Declaration of Independence states "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain

unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness". I would argue that the Declaration of Independence has primacy to the Second Amendment which, after all, was included, among other reasons, to placate the southern slave states and their plantation owners who wanted to keep their militias to track down, capture and kill, at their whim, escaped slaves.

Defenders of the Second Amendment claim it is needed to fight tyranny. I say to you the only tyrant I see is the one holding the gun and hiding behind the flag.

Do the right thing. Please support Mayor Pro Tem Ramirez letter to the County Fairgrounds asking for a gun show moratorium and support California Sen. Hannah-Beth Jackson's Senate Bill-55 and Assemblywoman Jacqui Irwin's Assembly Bill-12.

Thank you,
Steve Nash

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