

CITY OF NAPA CITY COUNCIL
AGENDA REPORT

ADMIN CALENDAR
AGENDA ITEM 15.B.
Date: November 20, 2012

To: Honorable Mayor and Members of City Council
From: Dorothy Roberts, City Clerk
Prepared by: Dorothy Roberts, City Clerk
Subject: Citizens United v Federal Election Commission Supreme Court Case

ISSUE STATEMENT:

Adopt a resolution to support a constitutional amendment to overturn "Citizens United v. Federal Election Commission".

DISCUSSION:

In January 2010, the Supreme Court ruled on "Citizens United v. Federal Election Commission" (Citizen's United). This landmark case ruled that corporations, as associations of individuals, have the same rights under the First Amendment as individuals.

The issue of "corporate personhood" has been fiercely debated since the Court's ruling. Opponents argue that human beings and businesses should not have the same rights. Supporters contend that people run corporations and as such are entitled to the same rights as an individual.

In 1974 Congress set limits on contributions to Political Action Committees (PACs), and established the Federal Election Commission. After the Citizens United ruling, however, corporations – under the premise of "corporate personhood", were allowed to spend unlimited amounts on political campaigns under the protection of the First Amendment. This allowed for the creation of Super PACs that are allowed to raise and spend unlimited amounts of money to independently support or oppose a candidate.

The State of California recently adopted AJR22, establishing California's support for a constitutional amendment to overturn the case and, as stated in the joint resolution, "restore constitutional rights and fair elections to the people". Additionally over twenty local jurisdictions have adopted similar resolutions.

Consistent with Policy Resolution 33, if the City Council wishes to consider this item, they must first decide if the matter has a direct effect or no direct effect of the local affairs of the City. Once established, action may be approved for a direct effect by a simple majority vote; no direct effect of the city's local affairs require a unanimous vote.

If approved, the resolution will be sent to the members of California Congressional Delegation.

FINANCIAL IMPACTS:

None

CEQA:

The City Clerk has determined that the recommended action described in this agenda report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

DOCUMENTS ATTACHED:

Attachment 1: Resolution

NOTIFICATION:

None.

RECOMMENDED ACTION:

Staff recommends that the City Council move, second and approve each of the actions set forth below, in the form of the following motion. Move to:

Determine if the matter has a direct effect or no direct effect of the local affairs of the City; and

Adopt a Resolution of the City Council of the City of Napa, State of California, supporting a Constitutional Amendment to overturn "Citizens United versus Federal Election Commission". (Direct effect: majority vote; no direct effect unanimous vote).

RESOLUTION R2012 __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, SUPPORTING A CONSTITUTIONAL
AMENDMENT TO OVERTURN CITIZENS UNITED V. FEDERAL
ELECTION COMMISSION

WHEREAS, the California State Legislature recently approved Assembly Joint Resolution 22 which calls upon the United States Congress to propose and send to the states for ratification a constitutional amendment to overturn Citizens United v. Federal Election Commission and to “restore constitutional rights and fair elections to the people”; and

WHEREAS, The First Amendment to the United States Constitution was designed to protect the free speech rights of people, not corporations; and

WHEREAS, The United States Supreme Court’s ruling in Citizens United v. Federal Election Commission will now unleash a torrent of corporate money in our political process unmatched by any campaign expenditure totals in United States history; and

WHEREAS, Citizens United v. Federal Election Commission purports to invalidate state laws and state constitutional provisions separating corporate money from elections; and

WHEREAS, The United States Supreme Court’s ruling in Citizens United v. Federal Election Commission represents a serious and direct threat to our democracy; and

WHEREAS, Article V of the United States Constitution empowers and obligates the people and states of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and republican form of self-government; and

WHEREAS, According to Common Cause more than 20 California cities, including Los Angeles, Oakland, San Francisco, Nevada City, and Chico, have passed similar resolutions. The City of Richmond has placed a measure on this November's ballot giving voters the opportunity to directly instruct their congressional delegation to pass an amendment; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

ATTACHMENT 1

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

1. The City Council hereby opposes the concept of “corporate personhood” and supports a Constitutional Amendment to overturn “Citizen’s United v the Federal Election Commission”.
2. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this Resolution.
3. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 20th day of November, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Dorothy Roberts
City Clerk

Approved as to form:

Michael W. Barrett
City Attorney