

RESOLUTION NO. 2012-020

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF THOUSAND OAKS URGING  
SENATOR BOXER, SENATOR FEINSTEIN,  
AND CONGRESSMAN GALLEGLY TO  
AMEND THE U.S. CONSTITUTION TO END  
CORPORATE PERSONHOOD**

WHEREAS, the 2010 U.S. Supreme Court decision *Citizens United v. Federal Election Commission* established "Corporate Personhood" by holding that corporations have the same First Amendment rights of free speech as persons; and

WHEREAS, the Supreme Court ruled that the First Amendment prohibits government from restricting political expenditures by corporations and unions; and

WHEREAS, the prohibition against legal restrictions on political expenditures by corporations has an overwhelming impact on the electoral process allowing unlimited spending by corporations to influence elections, candidates, and polices; and

WHEREAS, the *Citizens United* decision supersedes state and local efforts to regulate corporate activity in their elections; and

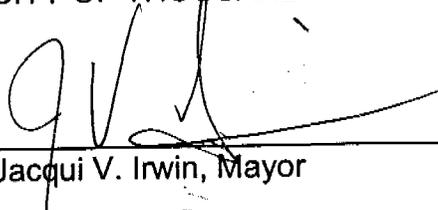
WHEREAS, the City of Thousand Oaks recognizes the importance of fair and democratic elections as set forth in Title 1, Chapter 13 of its Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Thousand Oaks that it joins with other cities across the country seeking an amendment the United States Constitution to end Corporate Personhood.

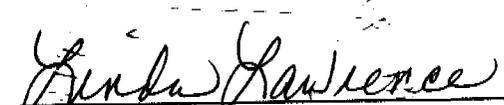
BE IT FURTHER RESOLVED that copies of this resolution be sent to Senators Barbara Boxer and Diane Feinstein, and Congressman Elton Gallegly.

PASSED AND ADOPTED this 24th day of April, 2012.

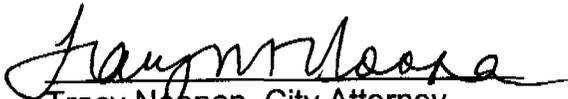
CITY OF THOUSAND OAKS

  
\_\_\_\_\_  
Jacquie V. Irwin, Mayor

ATTEST:

  
\_\_\_\_\_  
Linda D. Lawrence, City Clerk

APPROVED AS TO FORM:

  
Tracy Noonan, City Attorney

APPROVED TO ADMINISTRATION:

  
Scott Mitnick, City Manager

CERTIFICATION

STATE OF CALIFORNIA     )  
COUNTY OF VENTURA    ) SS.  
CITY OF THOUSAND OAKS   )

I, LINDA D. LAWRENCE, City Clerk of the City of Thousand Oaks, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Resolution No. 2012-020, which was duly and regularly passed and adopted by said City Council at a special meeting held April 24, 2012, by the following vote:

AYES:     Councilmember Bill-de la Peña and Mayor Irwin

ABSTAINING: Councilmember Fox

NOES:     Councilmember Price

ABSENT: Councilmember Glancy

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Thousand Oaks, California.

  
Linda D. Lawrence, City Clerk  
City of Thousand Oaks, California

4/26/12  
Date Attested

**TO:** Scott Mitnick, City Manager  
**FROM:** Mark Watkins, Assistant City Manager  
**DATE:** April 24, 2012  
**SUBJECT: Opposition to "Corporate Personhood"**

**RECOMMENDATION:**

Consider the following options:

1. Adopt Resolution Urging Senator Boxer, Senator Feinstein, and Congressman Gallegly to Amend the U.S. Constitution to End "Corporate Personhood."
2. Mayor to send letter to Senator Boxer, Senator Feinstein, and Congressman Gallegly seeking an Amendment to the U.S. Constitution to End "Corporate Personhood."
3. No action.

**FINANCIAL IMPACT:**

**No additional request for funding.** Indirect costs associated with staff research will be absorbed by FY 2012-2013 General Fund budget.

**BACKGROUND:**

A group of local supporters of a grassroots effort called "Move to Amend" has attended several City Council meetings bringing the issue of "*Corporate Personhood*" to City Council's attention during public comments. At the April 10 City Council meeting, City Council directed the City Manager to provide some research on the issue and provide information on the cities that have taken a position.

Pursuant to the City's Legislative Platform, any issues that are beyond the platform's scope of "local control" and "local funding" must be reviewed by the City Council for consideration and action.

## DISCUSSION/ANALYSIS/RESEARCH:

### Definition:

"*Corporate Personhood*" refers to the notion that corporations have some of the same rights, such as free speech under the U.S. Constitution as that of a human being/individual. Opponents of this concept argue that people and businesses, especially wealthy corporations are not equal and should not have the same rights. Supporters of corporate personhood suggest that *people run corporations and corporations are made up of people*, thus they should be entitled to the same rights as an individual.

### Supreme Court Ruling 2010

On January 21, 2010, in a Supreme Court ruling on *Citizens United v. Federal Election Commission*, the high court ruled that corporations have the same rights as that of a human being. This landmark decision by the United States Supreme Court held that the First Amendment prohibited the government from restricting political expenditures by corporations and unions. In a 5-4 split decision the majority opined that the First Amendment must protect speakers with equal vigor. The Supreme Court majority argued that the First Amendment does not tolerate prohibitions of speech based on the identity of the speaker. Because corporations are groups of individuals, the corporate form must receive the same free speech privileges as individual citizens. Likewise, the majority argued that independent expenditures are a form of speech, and limiting a corporation's ability to spend money also limits its ability to speak.

### Advent of Super PACs

Prior to the Supreme Court ruling, Congress in 1974 set limits on contributions to Political Action Committees or PACs and established the Federal Election Commission (FEC).

In brief, FEC rules include:

- A limit for individuals to \$5,000 per year for Federal PACs;
- Corporations and unions may not contribute directly to federal PACs, but can for the administrative costs of a PAC affiliated with the specific corporation or union;
- Corporate-affiliated PACs may only solicit contributions from executives, shareholders, and their families;
- Contributions from corporate or labor union treasuries are illegal, though they may sponsor a PAC and provide financial support for its administration and fundraising;

## Opposition to "Corporate Personhood"

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- Union-affiliated PACs may only solicit contributions from members;
- Independent PACs may solicit contributions from the general public and pay their own costs.

After the 2010 Supreme Court ruling, corporations under the notion of corporate personhood were allowed to spend unlimited amounts on political campaigns under the auspices of the First Amendment. This drove the creation of the Super PAC or *political committees that may raise and spend unlimited money to independently support or oppose candidate.*

Super PACs:

- may support particular candidacies
- are not allowed to coordinate directly with candidates or political parties
- can raise funds from corporations, unions and other groups, and from individuals, without legal limits

Super PACs currently operate in federal elections, most apparently during the 2012 Presidential elections. There are concerns that they can eventually be used to influence and target congressional elections, and ultimately local elections.

### Amendment to Constitution

The suggested way to abolish "Corporate Personhood," would be to call for an amendment to the constitution. Article V of the U.S. Constitution states that amendments must be passed through a bill by both the Senate and House of Representatives through a supermajority or 2/3rds vote. Once it passes Congress, it goes to individual states for approval. The amendment must be ratified by 3/4ths of the states to pass.

### City's Campaign Reform

The City of Thousand Oaks recognizes the importance of fair elections. This is codified under City's Municipal Ordinance - Chapter 13.

#### *Section 1-13.01. Purpose*

- (a) *To eliminate the possibility of corruption or the appearance of corruption in local elections, arising as a result of disproportionately large political contributions, by adopting the least restrictive limits possible on the amounts of money any person may contribute or otherwise cause to be available to candidates for the City Council and those who support or oppose such candidates; and*

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- (b) To promote informed actions by the electors of the City by requiring the full and truthful disclosure of contributions and expenditures in election campaigns; and*
- (c) To inhibit improper or illegal campaign activity, and to ensure vigorous enforcement of this chapter; and*
- (d) Pursuant to California Government Code Section 81013, and Elections Code Section 10202, to impose contribution limitations, disclosure requirements, and prohibitions in addition to those imposed by state law, but that do not prevent any person from complying with state law.*

The municipal code specifically outlines the contribution limit of \$380 that can be given to individual candidates running for local office or committees under Section 1-13.03 under Campaign Contributions:

*(a) Limits on contributions by persons and committees.*

*(1) No person or committee shall make to any candidate, including the controlled committee of such candidate, and no such candidate or such candidate's controlled committee, shall solicit or accept any contribution that will cause the amount contributed by the contributor to the candidate or the candidate's controlled committee to exceed Three Hundred Eighty and no/100ths (\$380.00) Dollars for any single election.*

*(2) No person shall make to any committee, which supports or opposes any candidate or candidates for City Council, and no such committee shall accept from any such person a contribution or contributions totaling more than Three Hundred Eighty and no/100ths (\$380.00) Dollars for any single election.*

Furthermore, the municipal code also sets forth additional requirements as they relate to committees exceeding \$10,000 in campaign contributions (Section 1-13.05); disclosure on advertisements of major contributors (Section 1-13.06); as well as record keeping and audits (Section 1-13.07).

### Local Implications

The impact of corporate personhood and Super PACs are widely demonstrated in the current 2012 Presidential elections. Even with the City's Municipal Ordinance on local campaign reform in place, the potential exists for similar PACs to form and operate on a local scale.

Positions Taken

A. Coalition Organizations

The National League of Cities, U.S. Conference of Mayors and League of California Cities have not taken a position on "Corporate Personhood."

B. Cities who have Passed Resolutions in Opposition of Corporate Personhood

Staff conducted a survey asking California cities if they have passed resolutions on the issue. To date, staff has learned of the following 16 California cities that have passed a resolution in opposition of Corporate Personhood:

1. Arcata
2. Berkeley
3. Chico
4. Fairfax
5. Fort Bragg
6. Los Altos Hills
7. Los Angeles
8. Ojai
9. Marina
10. Mount Shasta
11. Oakland
12. San Francisco
13. San Luis Obispo
14. Santa Cruz
15. Santa Monica
16. West Hollywood

On the national level, the following 13 cities have passed resolutions in opposition of Corporate Personhood:

1. Albany, NY
2. Ashville, NC
3. Boulder, CO
4. Duluth, MN
5. Eugene, OR
6. Missoula, MT
7. New York City, NY
8. Newtown, PA
9. Portland City, ME
10. Portland, OR
11. South Miami, FL
12. Tampa, FL
13. Taos, NM

C. CA State Legislature

The State Legislature is also in the process of memorializing the State's opposition to the 2010 Supreme Court ruling. Assemblymember Bob Wieckowski (D- San Francisco) introduced AJR 22- Campaign finance reform. This measure would memorialize the Legislature's disagreement with the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission*, and would call 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. The bill passed the Assembly and is now in the Senate Rules Committee. Committee hearing is pending.

For the Council's consideration, a Resolution has been prepared (Attachment # 1), and a sample letter from the Mayor (Attachment # 2).

**COUNCIL GOAL COMPLIANCE:**

Meets Council Goal A:

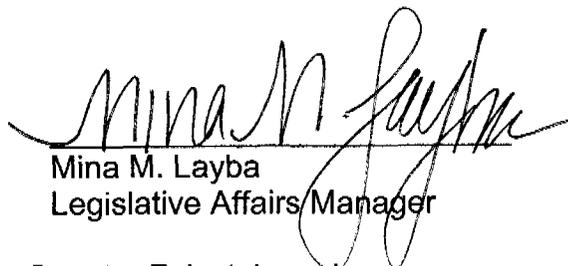
- A. Provide municipal government leadership which is open and responsive to residents, and is characterized by ethical behavior, stability, confidence in the future, and cooperative interaction among civic leaders, residents, business representatives, and City staff, while recognizing and respecting legitimate differences of opinion on critical issues facing the City.

Reviewed by:

Prepared by:



Mark Watkins  
Assistant City Manager



Mina M. Layba  
Legislative Affairs Manager

Attachment 1 – Resolution Urging Senator Boxer, Senator Feinstein and Congressman Gallegly to Amend the U.S. Constitution and End Corporate Personhood

Attachment 2 – Letter to Senator Boxer, Senator Feinstein, and Congressman Gallegly seeking an Amendment to the U.S. Constitution to End Corporate Personhood

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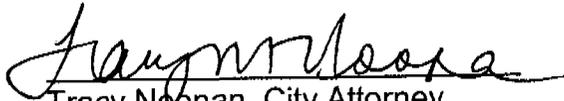
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Jacqui V. Irwin, Mayor

ATTEST:

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Linda D. Lawrence, City Clerk

APPROVED AS TO FORM:

  
Tracy Noonan, City Attorney

APPROVED TO ADMINISTRATION:

  
Scott Mitrack, City Manager

April 24, 2012

Senator Barbara Boxer  
United States Senate  
112 Hart Senate Office Building  
Washington, D.C. 20515

Senator Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20515

Congressman Elton Gallegly  
U.S. House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

**Re: Constitutional Amendment to End Corporate Personhood**

Dear Senator Boxer, Senator Feinstein and Congressman Gallegly:

The local organizing committee of a grassroots effort called, "Move to Amend" has attended several Thousand Oaks City Council meetings requesting the Council to adopt a resolution supporting an amendment to the U.S. Constitution abolishing "*corporate personhood*."

In the Supreme Court's landmark decision in *Citizens United v. Federal Election Commission*, the high court ruled that corporations have the same rights as a human being. This decision held that the First Amendment prohibited the government from restricting political speech and expenditures by corporations and unions. This led to the advent of Super PACs, which has had overwhelming and detrimental effect on current state and federal elections.

The Thousand Oaks City Council recognizes the importance of fair and democratic elections and has adopted its own regulations pertaining to local elections and campaigns as set forth under Title 1, Chapter 13 of its Municipal Code. On April 24, 2012, City Council voted to support an amendment to the U.S. Constitution to end "Corporate Personhood." The disproportionate spending created by the notion of corporate personhood and rise of Super PACs results in the distortion of the American campaign process.

The only way to remedy this is through an amendment to the U.S. Constitution. I hope you will consider supporting an amendment to the Constitution to end the practice of corporate personhood.

Sincerely,

Jacqui V. Irwin  
Mayor