

**TOWN OF WINDSOR
AGENDA REPORT**

Town Council Meeting Date: April 4, 2012

To: Mayor and Town Council
From: David Kelley, Assistant Town Manager
Subject: Resolution Urging Congress to Propose a Constitutional Amendment Regarding Corporate Personhood

Recommendation to Council:

Adopt a resolution urging Congress to propose a constitutional amendment regarding corporate personhood to limit political spending by corporations.

Background:

This item was placed on the agenda at the request of Councilmember Salmon.


Under the Bipartisan Campaign Reform Act of 2002 (BCRA), federal law prohibited corporations and unions from using their general treasury funds to make independent expenditures for speech that is an "electioneering communication" or for speech that expressly advocates the election or defeat of a candidate. An electioneering communication was considered to be "any broadcast, cable, or satellite communication" that "refers to a clearly identified candidate for Federal office" and is made within 30 days of a primary election, and that is "publicly distributed." On January 21, 2010, the Supreme Court in a 5-4 split decision ruled in *Citizens United v. Federal Election Commission* (Citizen United), that portions of BCRA §203 violated the First Amendment. Specifically, Justice Kennedy's majority opinion found that the BCRA §203 prohibition of all independent expenditures by corporations and unions violated the First Amendment's protection of free speech.

Discussion:

The *Citizens United* decision allows corporations and unions to use their general treasuries to pay for political advertisements that expressly call for the election or defeat of a candidate, known as independent expenditures. Additionally, this ruling subsequently allowed non-profit corporations under the tax code 501c to spend unlimited amounts of money running these political advertisements while not revealing their donors. Since the ruling in *Citizen United*, independent expenditure political action committees, often referred to as Super PACs may accept unlimited contributions from individuals, unions, and corporations (both for profit and not-for-profit) for the purpose of making independent expenditures. In response to the rise of Super PACs, a national coalition of organizations and individuals popularly referred to as "Move to Amend" was formed seeking legislation or a constitutional amendment that would restrict corporations and corporate interest groups influence in elections and the legislative process. A primary objective of the coalition is to abolish corporate personhood and to hold corporations accountable to the public.


Attachments:
Resolution

Prepared By:



David Kelley
Assistant Town Manager

Recommended By:



J. Matthew Mullan
Town Manager

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RESOLUTION NO.

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
URGING CONGRESS TO PROPOSE A CONSTITUTIONAL AMENDMENT
REGARDING CORPORATE PERSONHOOD TO LIMIT POLITICAL
SPENDING BY CORPORATIONS**

WHEREAS, the greatest threat to authentic democratic self-governance comes from the fact that corporations have been defined as legal persons; and

WHEREAS, persons are rightfully recognized as human beings whose essential needs include clean air, clean water, and safe and secure food; and

WHEREAS, the granting of constitutional protections to corporations has compromised our communities, economy, democracy and natural world in many ways; and

WHEREAS, corporations are human-made legal fictions, while human citizens are the source of all legitimate power in any democracy; and

WHEREAS, corporations need only profit for survival, and that such profit and survival are often in direct conflict with the essential needs and rights of human beings; and

WHEREAS, the great wealth of large corporations allows them to wield coercive force of law to overpower human beings and communities, thus denying citizens' exercise of our Constitutional rights; and

WHEREAS, the great wealth of large corporations enables them to amass great power disproportionate to that of human beings; and

WHEREAS, corporations are not mentioned in the Constitution, and the people never granted constitutional rights to corporations, while individual judges and courts have misguidedly done so; and

WHEREAS, the rollback of the legal limits to corporate spending in elections creates an unequal playing field enabling corporations to unduly influence elections, candidate selection, and policy decisions; and

WHEREAS, large corporations own most of America's mass media and use that media as a megaphone for their own agendas, drowning out human voices; and

WHEREAS, defining property as people is fundamentally wrong and a threat to the constitutional rights of human beings; and

WHEREAS, Senator Noreen Evans, Chair of the Senate Judiciary Committee, has introduced SB 982, a bill to require corporate political speech be public.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Windsor joins the millions of citizens, grassroots organizations and local governments across America in calling for an Amendment to the Constitution to firmly establish that money is not speech, that human beings are not corporations, that only the people are entitled to constitutional rights, and that the rights of human beings will never again be granted to fictitious entities or property.

PASSED, APPROVED AND ADOPTED this 4th day of April 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DEBORA FUDGE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK