

**RESOLUTION NO. 123-12**

A RESOLUTION TO SUPPORT THE "MOVE TO AMEND" CAMPAIGN BY JOINING WITH OTHER COMMUNITIES AROUND THE COUNTRY TO DEFEND DEMOCRACY BY AMENDING THE UNITED STATES CONSTITUTION TO ENSURE ONLY HUMAN BEINGS, NOT CORPORATIONS, HAVE CONSTITUTIONALLY PROTECTED FREE SPEECH RIGHTS

**WHEREAS**, the United States Supreme Court has asserted by a five to four majority that corporations have the same free speech rights as human beings; and

**WHEREAS**, United States citizen human beings have and should continue to be valued more and enjoy greater inalienable and constitutional free speech rights than corporations, business associations or unions; and

**WHEREAS**, money is not speech and should be able to be constitutionally regulated as to political contributions and its use in political campaigns by candidates or other entities attempting to influence political decisions or votes.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its support of the national "Move To Amend" campaign to defend democracy by amending the United States Constitution to ensure only human beings, not corporations or other associations, have constitutionally protected free speech rights and to reject the premise that money is "speech".

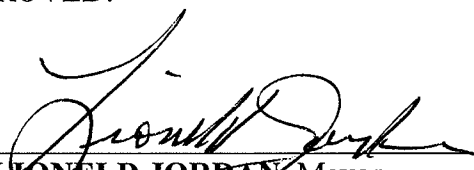
Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that Arkansas legislators on the State and Federal level also support an appropriate United States Constitutional Amendment to ensure the First Amendment's Free Speech rights protect real people, rather than corporations, associations, unions or other entities.

**PASSED and APPROVED** this 5<sup>th</sup> day of June, 2012.

APPROVED:

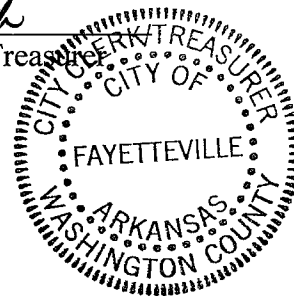
ATTEST:

By:

  
LIONELD JORDAN, Mayor

By:

  
SONDRA E. SMITH, City Clerk/Treasurer



Added at Agenda  
Session 5/29/12  
NB#7

## AGENDA REQUEST

**FOR: COUNCIL MEETING OF JUNE 5, 2012**

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**FROM:**

**ALDERMAN MATTHEW PETTY  
ALDERMAN MARK KINION**

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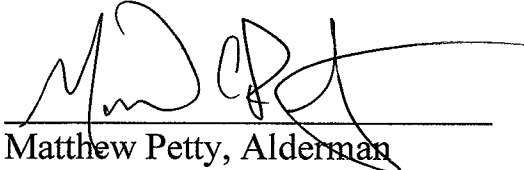
**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

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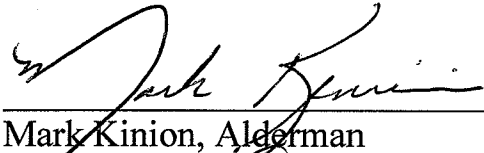
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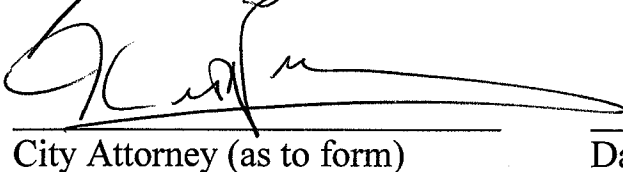
**APPROVED FOR AGENDA:**

  
\_\_\_\_\_  
Matthew Petty, Alderman

5-9-2012  
Date

  
\_\_\_\_\_  
Mark Kinion, Alderman

5-25-2012  
Date

  
\_\_\_\_\_  
City Attorney (as to form)

5-8-2012  
Date

**RESOLUTION NO. \_\_\_\_\_**

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APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

Handed out at Agenda Session 5/29/12

## Under the Supreme Court: High court agrees to consider corporate free speech post-Citizen United

April 9, 2012

Nicole Debevec

### United Press International

The U.S. Supreme Court agreed to consider taking another bite of the corporate political free speech apple recently, accepting a petition asking justices to summarily overturn a Montana Supreme Court decision petitioners say flies in the face of Citizens United.

In upholding a ban on corporate independent expenditures in state elections, the Montana justices determined that "unlike Citizens United, this case concerns Montana law, Montana elections and it arises from Montana history."

That ruling, the petition said, raises the question for the U.S. Supreme Court to consider: "Whether Montana is bound by the holding of Citizens United, that a ban on corporate independent political expenditures is a violation of the First Amendment, when the ban applies to state, rather than federal, elections."

Citizens United vs. Federal Election Commission is the Supreme Court's 5-4 decision two years ago that effectively ended the restrictions on political contributions from the general funds of corporations and unions.

In asking for a summary judgment, the petition (American Tradition Partnership, et al., vs. Bullock, et al.) by two Montana corporations said the state's top court was wrong in its reasoning about the origin of the flow of the vast sums of money pouring into election campaigns, among other things. The money isn't coming from corporations, but people, the petition argued, and people have been free to spend pretty much as they see fit since 1976.

"The core holding of Citizens United," the petition argued, "is that the independence of independent expenditures means that they pose no cognizable quid-pro-quo corruption risk and no other cognizable governmental interest justifies banning

corporate independent expenditures. Thus, the Montana Supreme Court's decision constitutes an attempt to force the reconsideration of Citizens United simply because it disagrees with the opinion.

"That effort should be rejected summarily."

In March, Justices Ruth Bader Ginsburg and Stephen Breyer argued the Montana case would give the Supreme Court a chance to rethink Citizens United.

"A petition for certiorari will give the Court an opportunity to consider whether, in light of the huge sums currently deployed to buy candidates' allegiance, Citizens United should continue to hold sway," the statement said.

Ginsburg and Breyer said in their statement lower courts were still bound by the 2010 ruling that freed corporations and labor unions to spend as much as they wished on campaigns if they did so independently of candidates. The court put on hold the state court ruling upholding a Montana law similar to the federal law nullified in Citizens United, at least until an appeal is decided.

Most of the money spent in this election cycle is by the so-called "Super PACs," political action committees formed to make independent expenditures promoting or opposing a certain candidate and that have gained great traction and appeal since Citizen United was handed down.

In their petition, the corporations said the Montana decision was in conflict with the Supreme Court's Citizens United holding that corporations could not be banned from doing core political speech and the Court's reasoning that the independence of such speech (through super PACs) eliminated risk of corrupting candidates.

A lower court in Montana relied on Citizens United in declaring the Corrupt Practices Act unconstitutional, but the state's Supreme Court overturned that decision Dec. 30, ruling the U.S. Supreme Court campaign spending decision didn't conflict with the state's law because it was federal,

not state.

James Bopp Jr. of The Bopp Law Firm in Terre Haute, Ind., and lead counsel for the corporations, said, "If Montana can ban core political speech because of Montana's unique characteristics, free speech will be seriously harmed."

He said speakers would be silenced because of corrupt activities more than 100 years ago or because Montana candidates typically don't spend much on their campaigns, Legal Newline said.

In its petition, the corporations said reconsidering Citizens United "based on the facts proposed for limiting core political speech would pose grave constitutional dangers to free speech and association," the petition read. "Consequently, summary reversal is appropriate."

In the filing, Bopp urges the Court to overturn Montana's ban and to reverse the ruling by the state Supreme Court that upheld it, the state's Corrupt Practices Act, which bars corporate contributions in state political campaigns.

Montana Attorney General Steve Bullock expressed mixed feelings about the U.S. Supreme Court's decision to stay the Montana law.

"At the end of the day, the Citizens United decision dealt with a completely different electoral system -- the federal elections and federal laws," he said on MSNBC. "But the vast majority of elections are at the state and local level."

"There are real differences there," he said. "That's what we pushed, and I think that the court would recognize that."

Just last week, Democracy for America said it began a new campaign designed to take apart the Citizens United decision by taking on the ruling through the court system and highlighting Bullock's case before the U.S. Supreme Court.

The advocacy group's campaign calls on attorneys general from across the United States to sign onto an amicus brief -- or friend-of-the-court brief -- documenting the need to overturn the 2010 Supreme Court decision, Democracy for America said in a release.

"Citizens United corrupts our democratic process,"

said Jim Dean, the organization's chairman. "This campaign, courageously headed by Montana's Attorney General Steve Bullock, demands that the Supreme Court address [its] decision that allowed undisclosed amounts of money to flow into our electoral process. Corporations are not people and ordinary citizens should not be drowned out of democracy."

Adam Skaggs, senior counsel at the Brennan Center for Justice at New York University's School of Law, also argued for the Supreme Court to uphold Montana's ban, saying the matter before it gives the justices a chance to review the "real-world consequences" of Citizens United and "the devastating effect it has had on our democracy," Legal Newline said.

"The Montana Supreme Court was right to uphold the state's law banning corporate money in elections. The state's experience with corruption, and the flood of super PAC spending today, makes clear that corporate spending in elections can give rise to the appearance and reality of corruption," Skaggs said in a statement.

However, the petitioners said Citizens United hasn't been burdensome.

"Citizens United has not proven unworkable, as evidenced by those who have exercised their liberty under it," the petition said. "Lower courts, except for the [Montana Supreme Court], have uniformly followed this court's holding, and legislatures and government agencies, with few exceptions, have implemented the protections of Citizens United."

Perhaps the most notable objection to the ruling was President Obama's comments during the 2010 State of the Union address, when he remarked, "With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests -- including foreign corporations -- to spend without limit in our elections."

More recently, Sen. John McCain, R-Ariz., co-sponsor of legislation that limited how much individuals could contribute to political campaigns, predicted "major scandals" would be the result of the more prominent role of super PACS that Citizens United allowed to foster, The Hill reported.

"What the Supreme Court did is a combination of much money washing around, too much of it we arrogance, naivete and stupidity the likes of which I don't know who's behind it and too much have never seen," McCain said. "I promise you, corruption associated with that kind of money." there will be huge scandals because there's too

## **Places that have already passed this as an ordinance or resolution:**

### ***Citizens Initiative***

1. Boulder, CO | Citizens Initiative
2. Dane County, WI | Citizens Initiative
3. Falmouth, MA Town Meeting | Citizens Initiative
4. Madison, WI | Citizens Initiative
5. Missoula, MT | Citizens Initiative
6. Oak Park Township, IL | Citizens Initiative
7. West Allis, WI | Citizens Initiative

### ***Municipal Government Resolution***

1. Albany, CA City Council | Municipal Government Resolution
2. Albany, NY City Council | Municipal Government Resolution
3. Albany, VT Town Meeting | Municipal Government Resolution
4. Arcata, CA City Council | Municipal Government Resolution
5. Asheville, NC City Council | Municipal Government Resolution
6. Athens, OH | Municipal Government Resolution
7. Barnet, VT Town Meeting | Municipal Government Resolution
8. Berkeley, CA | Municipal Government Resolution
9. Bolton, VT Town Meeting | Municipal Government Resolution
10. Brandon, VT Town Meeting | Municipal Government Resolution
11. Brattleboro, VT Town Meeting | Municipal Government Resolution
12. Brighton, NY Town Council | Municipal Government Resolution
13. Bristol, VT Town Meeting | Municipal Government Resolution
14. Bryson City, NC Board of Alderpersons | Municipal Government Resolution
15. Buffalo, NY City Council | Municipal Government Resolution
16. Burlington, VT Town Meeting | Municipal Government Resolution
17. Calais, VT Town Meeting | Municipal Government Resolution
18. Carrboro, NC Board of Aldermen | Municipal Government Resolution
19. Chapel Hill, NC Town Council | Municipal Government Resolution
20. Charlotte, VT Town Meeting | Municipal Government Resolution
21. Chester, VT Town Meeting | Municipal Government Resolution

22. Chico, CA City Council | Municipal Government Resolution
23. Chittenden, VT Town Meeting | Municipal Government Resolution
24. Corvallis, OR City Council | Municipal Government Resolution
25. Craftsbury, VT Town Meeting | Municipal Government Resolution
26. Danby, NY City Council | Municipal Government Resolution
27. Duluth, MN City Council | Municipal Government Resolution
28. East Montpelier, VT Town Meeting | Municipal Government Resolution
29. Eugene, OR City Council | Municipal Government Resolution
30. Fairfax, CA City Council | Municipal Government Resolution
31. Fayston, VT Town Meeting | Municipal Government Resolution
32. Flagstaff, AZ City Council | Municipal Government Resolution
33. Fletcher, VT Town Meeting | Municipal Government Resolution
34. Fort Bragg, CA City Council | Municipal Government Resolution
35. Franklin, NC City Council | Municipal Government Resolution
36. Granville, VT Town Meeting | Municipal Government Resolution
37. Greensboro, VT Town Meeting | Municipal Government Resolution
38. Hardwick, VT Town Meeting | Municipal Government Resolution
39. Hartford, CT City Council | Municipal Government Resolution
40. Hartford, VT Town Meeting | Municipal Government Resolution
41. Hartland, VT Town Meeting | Municipal Government Resolution
42. Highlands, NC Town Council | Municipal Government Resolution
43. Hinesburg, VT Town Meeting | Municipal Government Resolution
44. Ithaca, NY Common Council | Municipal Government Resolution
45. Jamestown, CO City Council | Municipal Government Resolution
46. Jefferson County, WA Board of County Commissioners | Municipal Government Resolution
47. Jericho, VT Town Meeting | Municipal Government Resolution
48. Key West, FL City Commission | Municipal Government Resolution
49. Lancaster, PA City Council | Municipal Government Resolution
50. Leverett, MA Town Meeting | Municipal Government Resolution
51. Lincoln, MA Town Meeting | Municipal Government Resolution
52. Lincoln, VT Town Meeting | Municipal Government Resolution
53. Los Altos Hills, CA City Council | Municipal Government Resolution
54. Marina, CA | Municipal Government Resolution
55. Marlboro, VT Town Meeting | Municipal Government Resolution



56. Marshfield, VT Town Meeting | Municipal Government Resolution
57. Middletown Springs, VT Town Meeting | Municipal Government Resolution
58. Monkton, VT Town Meeting | Municipal Government Resolution
59. Montgomery, VT Town Meeting | Municipal Government Resolution
60. Montpelier, VT Town Meeting | Municipal Government Resolution
61. Moretown, VT Town Meeting | Municipal Government Resolution
62. Mountain View, CA City Council | Municipal Government Resolution
63. Mt Holly, VT Town Meeting | Municipal Government Resolution
64. Nevada City, CA City Council | Municipal Government Resolution
65. Newbury, VT Town Meeting | Municipal Government Resolution
66. Newfane, VT Town Meeting | Municipal Government Resolution
67. Newport, OR City Council | Municipal Government Resolution
68. Norwich, VT Town Meeting | Municipal Government Resolution
69. Ojai, CA City Council | Municipal Government Resolution
70. Orange County, NC Board of Commissioners | Municipal Government Resolution
71. Orlando, FL City Council | Municipal Government Resolution
72. Peru, VT Town Meeting | Municipal Government Resolution
73. Petaluma, CA City Council | Municipal Government Resolution
74. Plainfield, VT Town Meeting | Municipal Government Resolution
75. Point Arena, CA City Council | Municipal Government Resolution
76. Port Townsend, WA City Council | Municipal Government Resolution
77. Portland, ME City Council | Municipal Government Resolution
78. Portland, OR City Council | Municipal Government Resolution
79. Pueblo, CO City Council | Municipal Government Resolution
80. Putney, VT Town Meeting | Municipal Government Resolution
81. Randolph, VT Town Meeting | Municipal Government Resolution
82. Redlands, CA City Council | Municipal Government Resolution
83. Richmond, CA City Council | Municipal Government Resolution
84. Richmond, VT Town Meeting | Municipal Government Resolution
85. Ripton, VT Town Meeting | Municipal Government Resolution
86. Rochester, VT Town Meeting | Municipal Government Resolution
87. Roxbury, VT Town Meeting | Municipal Government Resolution
88. Rutland City, VT Town Meeting | Municipal Government Resolution
89. Rutland Town, VT Town Meeting | Municipal Government Resolution

90. Santa Cruz, CA City Council | Municipal Government Resolution
91. Santa Fe, NM City Council | Municipal Government Resolution
92. Seattle, WA City Council | Municipal Government Resolution
93. Sharon, VT Town Meeting | Municipal Government Resolution
94. Shelburne, VT Town Meeting | Municipal Government Resolution
95. Shrewsbury, VT Town Meeting | Municipal Government Resolution
96. South Burlington, VT Town Meeting | Municipal Government Resolution
97. South Miami, FL City Council | Municipal Government Resolution
98. South Robertson Neighborhood Council (Los Angeles, CA) | Municipal Government Resolution
99. Starksboro, VT Town Meeting | Municipal Government Resolution
100. Sudbury, VT Town Meeting | Municipal Government Resolution
101. Telluride, CO Town Council | Municipal Government Resolution
102. Thetford Center, VT Town Meeting | Municipal Government Resolution
103. Thousand Oaks, CA City Council | Municipal Government Resolution
104. Tunbridge, VT Town Meeting | Municipal Government Resolution
105. Underhill, VT Town Meeting | Municipal Government Resolution
106. Waitsfield, VT Town Meeting | Municipal Government Resolution
107. Walden, VT Town Meeting | Municipal Government Resolution
108. Waltham, VT Town Meeting | Municipal Government Resolution
109. Warren, VT Town Meeting | Municipal Government Resolution
110. West Haven, VT Town Meeting | Municipal Government Resolution
111. West Hollywood, CA City Council | Municipal Government Resolution
112. Williamstown, VT Town Meeting | Municipal Government Resolution
113. Williston, VT Town Meeting | Municipal Government Resolution
114. Windsor, VT Town Meeting | Municipal Government Resolution
115. Winooski, VT Town Meeting | Municipal Government Resolution
116. Woodbury, VT Town Meeting | Municipal Government Resolution
117. Woodstock, VT Town Meeting | Municipal Government Resolution
118. Worcester, VT Town Meeting | Municipal Government Resolution
119. Yachats, OR City Council | Municipal Government Resolution
120. Yarmouth, MA City Council | Municipal Government Resolution

## **State**

1. Vermont State Legislature | State

## **Ordinance**

1. Barnstead, NH | Ordinance
2. Blaine Township, PA | Ordinance
3. Donegal, PA | Ordinance
4. Essex County Democratic Committee | Ordinance
5. Humboldt County, CA | Ordinance
6. Lehman, PA | Ordinance
7. Licking, PA | Ordinance
8. Monroe, ME | Ordinance
9. Montgomery County, VA | Ordinance
10. Mt Shasta, CA | Ordinance
11. Newtown, PA | Ordinance
12. Nottingham, NH | Ordinance
13. Packer, PA | Ordinance
14. Pittsburgh, PA | Ordinance
15. Porter, PA | Ordinance
16. Shapleigh, ME | Ordinance
17. Van Etten, NY | Ordinance
18. Wayne, PA | Ordinance
19. Windsor, PA | Ordinance

## **Places that have passed a similar ordinance/resolution**

1. Northfield Township, IL | Citizens Initiative

## ***Municipal Government Resolution***

1. Los Angeles, CA City Council | Municipal Government Resolution
2. Lynn, MA City Council | Municipal Government Resolution
3. Marin County, CA Board of Supervisors | Municipal Government Resolution
4. Newburyport, MA Town Council | Municipal Government Resolution
5. Northampton, MA City Council | Municipal Government Resolution
6. Oakland, CA City Council | Municipal Government Resolution
7. San Francisco, CA City Council | Municipal Government Resolution
8. Tampa Bay, FL City Council | Municipal Government Resolution
9. Taos, NM City Council | Municipal Government Resolution

10. Taos, NM County Board of Commissioners | Municipal Government Resolution

**State**

1. Alaska State Senate | State

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Monday, May 21, 2012

**MCDANIEL ASKS SUPREME COURT TO RECONSIDER CAMPAIGN FINANCE DECISION**

LITTLE ROCK - Attorney General Dustin McDaniel and 22 other attorneys general today asked the U.S. Supreme Court to reconsider a 2010 decision that eliminated federal restrictions on independent political spending by corporations.

In an amicus brief, McDaniel said the decision in the Citizens United case should be revisited by the Court. The states shared with the Court concerns that unrestricted independent campaign expenditures may distort political races, promote corruption or require corporate shareholders to fund political communication that they oppose.

"The Citizens United decision opened the door for corporations and labor unions to secretly spend as much as they want, whenever they want, on political issues," McDaniel said. "I believe in reasonable contribution limits with transparent reporting requirements so that the people can know who is financing candidates and issues. The Citizens United case has destroyed those concepts."

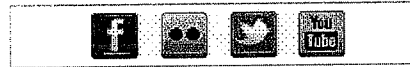
The amicus brief was submitted in a Montana case that involves whether Citizens United should pertain to state and local elections. In an order issued earlier this year related to the Montana case, Justice Ruth Bader Ginsburg wrote that the experience in Montana and elsewhere makes it "exceedingly difficult" to argue that independent corporate expenditures "do not give rise to corruption or the appearance of corruption."

In the brief, the attorneys general argue that, under Citizens United, there is a higher risk that "nonresident corporations with discrete and well-defined interests will dominate campaign spending in state and local election contests," if applied to states.

The case is American Tradition Partnership Inc. v. Bullock, 11-1179.

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Connect With Dustin



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*Handed out  
at the  
June 5, 2012  
City Council  
meeting.*