

Resolution No. 2012-008 N.C.S.
of the City of Petaluma, California

**URGING CONGRESS TO PROPOSE A CONSTITUTIONAL AMENDMENT
REGARDING CORPORATE PERSONHOOD TO
LIMIT POLITICAL SPENDING BY CORPORATIONS**

WHEREAS, historically corporations were created as artificial entities subordinate to our democracy, yet the U.S. Supreme Court has granted corporations personhood status, free speech and other protections guaranteed to living humans by the Bill of Rights and the 14th Amendment, and the Petaluma City Council considers it to be its right and duty to assert that corporations are not natural persons with human rights; and,

WHEREAS, the U.S. Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission* further threatens our democracy by rolling back limits on corporate spending in electoral campaigns, allowing vast amounts of corporate money to drown out the voices of individual human beings; and,

WHEREAS, Justice Stevens, writing in dissent in *Citizens United*, stated: “. . . corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their “personhood” often serves as a useful legal fiction. But they are not themselves members of “We the People” by whom and for whom our Constitution was established”; and,

WHEREAS, a Washington Post-ABC News poll found that 80% of Americans oppose the Court's January 21, 2010 ruling in *Citizens United*; and,

WHEREAS, U.S. Senate Judiciary Committee Chair Patrick Leahy stated that the ruling “will allow major corporations – who should have law written to control their effect on America – to instead control America”; former Senator Warren Rudman wrote, “Supreme Court opinion notwithstanding, corporations are not defined as people under the Constitution, and free speech can hardly be called free when only the rich are heard”; and Senator Chris Dodd pointed out that “money is not speech,” that “corporations are not people” and that “a constitutional amendment is necessary to fully restore the trust and voice of the American people”; and,

WHEREAS, United States Supreme Court Justice Stevens observed in *Nixon v. Shrink Missouri Government PAC* (2000) that “money is property, it is not speech,” and,

WHEREAS, when freedom to speak is equated with freedom to spend money, millions of people who have less money are disenfranchised, thus denying their full rights to free speech.

NOW, THEREFORE, BE IT RESOLVED, that it is the position of the City Council of the City of Petaluma that corporations should not receive the same constitutional rights as natural persons, and that because money is not speech, limits on political spending will promote the goals of the First Amendment by ensuring that all citizens, regardless of wealth, have an equal opportunity to have their political opinions heard.

BE IT FURTHER RESOLVED that the Petaluma City Council respectfully urges California's Congressional delegation to prioritize Congressional proposal of an amendment to the United States Constitution that contains both of these principles so that the States may ratify it.

BE IT FINALLY RESOLVED that the Petaluma City Council directs the City Manager to send this resolution to the City's California Congressional Delegation and State legislative delegates, post it on the City of Petaluma's web site, and send it to all local media outlets.

Under the power and authority conferred upon this Council by the Charter of said City:

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 9th day of January, 2012, by the following vote:

Approved as to
form:

City Attorney

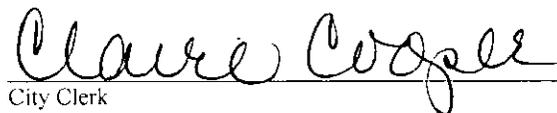
AYES: Albertson, Barrett, Mayor Glass, Healy, Kearney, Vice Mayor Renée

NOES: Harris

ABSENT: None

ABSTAIN: None

ATTEST:


City Clerk


Mayor



DATE: January 9, 2012

TO: Honorable Mayor and Members of the City Council

FROM: John C. Brown, City Manager 

SUBJECT: Resolution Calling for a Constitutional Amendment Regarding Corporate Personhood to Limit Political Spending by Corporations

RECOMMENDATION

It is recommended the City Council consider, and if appropriate, adopt the attached resolution requesting Congress to propose an amendment to the U.S. Constitution regarding corporate personhood to limit political spending by corporations.

BACKGROUND

Corporations were not mentioned, nor granted any rights when the United States Constitution was drafted. Corporate Personhood refers to the status conferred to corporations through United States Supreme Court (Court) decisions, beginning in the 1800's. Over time, the Court granted corporations rights and responsibilities similar to those of a natural person, including First and Fourteenth Amendment rights to free speech and equal protection.

Court decisions following the enactment of the Federal Election Campaign Act in 1971 (the Act) have focused on corporate contributions to political campaigns and political advertising, and the Act has been amended several times, including in 1974 to establish the Federal Election Commission. In 1976, the Court in Buckley v. Valeo sustained the Act's limits on individual contributions, as well as the disclosure and reporting provisions and the public financing scheme in the Act. However, the limitations on campaign expenditures, on independent expenditures by individuals and groups, and on expenditures by a candidate from personal funds were struck down. Court decisions related to corporate personhood following Buckley protected corporate spending to some extent, but also upheld limits on direct corporate contributions. In 2010, in Citizens United v. Federal Election Commission the Court held that corporate funding of independent political broadcasts in candidate elections cannot be limited under the First Amendment, thus making it unconstitutional for government to regulate this type of corporate expenditure to influence elections. It should be noted that the principles the Supreme Court applied to corporations also apply to spending by other advocacy organizations such as labor unions and public interest groups.

Agenda Review:

City Attorney  Finance Director _____ City Manager 

Court decisions related to corporate personhood and political spending have frequently included dissenting opinions, and corporate personhood has been a subject of periodic if not ongoing debate. After the Supreme Court's ruling in *Citizens*, that debate has intensified, particularly with respect to the role corporate funding should play in the democratic process.

A growing number of cities around the country are adopting resolutions calling for a Constitutional amendment to limit corporate rights and disallow corporate campaign contributions and political advertising as an exercise of free speech. At the December 19, 2011 meeting of the Petaluma City Council, it was noted the Los Angeles City Council recently adopted such a resolution. Petaluma City Council members requested the matter be placed on their next agenda for discussion and possible action on a similar resolution.

DISCUSSION

As noted in the Background section, a growing number of cities are adopting resolutions addressing the issues around corporate personhood. Staff has reviewed a number of these resolutions, and material regarding the corporate personhood debate. It appears the basic points in these resolutions are that corporations should not be considered to have the same Constitutional rights as natural persons, and that corporate campaign spending should not be considered speech protected by the First Amendment. These concepts are incorporated in the attached resolution, drafted for Council action should you determine that you wish to take this position.

It should be noted that the process of amending the United States Constitution is dictated by Article V of the Constitution, and occurs in one of two ways. In the first instance, both the House of Representatives and the Senate must approve, by a two-thirds vote, a joint resolution proposing to amend the Constitution. In the alternative, two-thirds of the state legislatures must ask Congress to call a national convention to propose amendments. Once a proposal has been passed, it is referred to the States for ratification, in the manner dictated by Congress. Ratification is when either three-fourths (3/4) of the state legislatures approve it or, in the alternative, when ratifying conventions in three-fourths of the states approve it. Accordingly, it is suggested that any resolution the Council may adopt in this regard be provided to our California Congressional, and State legislative delegations.

FINANCIAL IMPACTS

Financial impacts associated with the recommended action include staff time researching and drafting this report and accompanying resolution, and mailing copies of these items to our representatives Washington and Sacramento. This estimated to be 6 hours, at a cost of approximately \$800.

ATTACHMENTS

1. Resolution

ATTACHMENT 1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA URGING CONGRESS TO PROPOSE A CONSTITUTIONAL AMENDMENT REGARDING CORPORATE PERSONHOOD TO LIMIT POLITICAL SPENDING BY CORPORATIONS

WHEREAS, historically corporations were created as artificial entities subordinate to our democracy, yet the U.S. Supreme Court has granted corporations personhood status, free speech and other protections guaranteed to living humans by the Bill of Rights and the 14th Amendment, and the Petaluma City Council considers it to be its right and duty to assert that corporations are not natural persons with human rights; and

WHEREAS, the U.S. Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission* further threatens our democracy by rolling back limits on corporate spending in electoral campaigns, allowing vast amounts of corporate money to drown out the voices of individual human beings; and

WHEREAS, Justice Stevens, writing in dissent in *Citizens United*, stated: “. . . corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their “personhood” often serves as a useful legal fiction. But they are not themselves members of “We the People” by whom and for whom our Constitution was established”; and

WHEREAS, a Washington Post-ABC News poll found that 80% of Americans oppose the Court's January 21, 2010 ruling in *Citizens United*; and

WHEREAS, U.S. Senate Judiciary Committee Chair Patrick Leahy stated that the ruling “will allow major corporations – who should have law written to control their effect on America – to instead control America;” former Senator Warren Rudman wrote, “Supreme Court opinion notwithstanding, corporations are not defined as people under the Constitution, and free speech can hardly be called free when only the rich are heard;” and Senator Chris Dodd pointed out that “money is not speech,” that “corporations are not people” and that “a constitutional amendment is necessary to fully restore the trust and voice of the American people;” and

WHEREAS, United States Supreme Court Justice Stevens observed in *Nixon v. Shrink Missouri Government PAC* (2000) that “money is property, it is not speech”, and

WHEREAS, when freedom to speak is equated with freedom to spend money, millions of people who have less money are disenfranchised, thus denying their full rights to free speech.

NOW, THEREFORE, BE IT RESOLVED, that it is the position of the City Council of the City of Petaluma that corporations should not receive the same constitutional rights as natural persons, and that because money is not speech, limits on political spending will promote the goals of the First Amendment by ensuring that all citizens, regardless of wealth, have an equal opportunity to have their political opinions heard.

BE IT FURTHER RESOLVED that the Petaluma City Council respectfully urges California's Congressional delegation to prioritize Congressional proposal of an amendment to the United States Constitution that contains both of these principles so that the States may ratify it.

BE IT FINALLY RESOLVED that the Petaluma City Council directs the City Manager to send this resolution to the City's California Congressional Delegation and State legislative delegates, post it on the City of Petaluma's web site, and send it to all local media outlets.

1769179.1

Mattioli, Allison Closed Session Item & Agenda Item #3, C

From: Tom Brown <katchat@sonic.net>
Sent: Monday, January 09, 2012 2:58 PM
To: - City Clerk
Subject: Petaluma City Council Mtg. Jan. 9, 2012

Dear Mayor Glass and Members of the Petaluma City Council,

There are two items of prime importance to me on tonight's Agenda: the City litigation to block the proposed Dutra asphalt plant in the Sonoma County Superior Court; and the Resolution calling for a Constitutional Amendment regarding "Corporate Personhood". The two issues highlight the challenges our democracy faces from the undue influence of power and money on our political system.

In the Dutra case, Judge Choteau clearly demonstrated: his lack of qualifications to act as a CEQA Judge; and his total disregard for the health and safety of the citizens of Petaluma. The same citizens who are overwhelmingly opposed to an asphalt plant on their front doorstep. And a City Council that voted unanimously to reject the project, and filed suit to block it.

I thank the current Members of the Petaluma City Council who originally voted against the plant, and the new Members of the Petaluma City Council, all of whom opposed the plant during their campaigns for office. I urge you all to act once again to send a strong message to the Sonoma County Board of Supervisors and to Dutra that the Petaluma City Council remains unanimously opposed to this project, and appeal this egregious dismissal to a higher and more qualified Federal Appeals Court.

The Supreme Court decision granting corporations "personhood" demonstrates even they are not immune to the corrupting influence of power and money. In equating money with free speech this Court is undermining the very essence of democracy, a government "of the people, by the people, and for the people".

I commend and support the "Resolution Calling for a Constitutional Amendment Regarding **Corporate Personhood** to Limit Political Spending by Corporations".

There may be those who argue that pursuing these issues is a waste of City time and resources, but nothing could be further from the truth. Nothing should come before the welfare of the people of Petaluma. And the long term benefits will be measured in a healthier community in all aspects; a demonstration that a vibrant economy is not a result of trashing the environment, but just the opposite!

Thank you for your consideration,
Tom Brown