



# City of Del Mar Staff Report



TO: Honorable Mayor and City Council Members

FROM: Council Members Dwight Worden and Don Mosier

DATE: January 20, 2015

SUBJECT: Adoption of a Resolution to Express Support for Reform of the *Citizens United* U.S. Supreme Court Ruling

## REQUESTED ACTION/RECOMMENDATION:

Council Members Dwight Worden and Don Mosier recommend that the City Council adopt the proposed Resolution expressing disagreement with the *Citizens United* U.S. Supreme Court ruling and express their support for a Constitutional Amendment to overturn the decision.

## DISCUSSION/ANALYSIS:

This item was continued from the January 5, 2015 City Council meeting.

Two U.S. Supreme Court cases have altered the way money influences politics at all levels of government:

*Buckley v. Valeo* (decided in 1976) held that political campaign spending is a form of “free speech,” so it cannot be limited by law.

*Citizens United v. FEC* (decided in 2010) held corporations have the same constitutional rights as people. The ruling opened the floodgates to unlimited corporate spending.

Under these rulings there are no limits on how much money an individual or a corporation can spend on elections at the federal, state, or local level so long as those expenditures are “independent” of a candidate’s or ballot measure campaign. These rulings mean, for example, that labor unions and the Koch Brothers can spend unlimited dollars to elect or defeat candidates, or ballot measures, at the federal, state and local levels. Worse, PACS and non-profits [501c(4) organizations] are being set up through which HUGE amounts of money are passed to influence campaigns avoiding any obligation to disclose who the donors are supplying this money.

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## City Council Action:

There are national, state, and local efforts underway to change this situation. National polling shows strong bipartisan support for change. 700 Cities nationwide, including 70 in California, and 16 states, including California, have adopted resolutions similar to the one being brought before our council. Locally, Solana Beach, Encinitas and the City of San Diego have adopted resolutions.

Del Mar has strict campaign financing rules on its books. It is important to understand, however, that these local rules WILL NOT APPLY under the Citizens United case should a corporation, labor union, or other organization make “independent” expenditures and these expenditures will NOT be subject to any limits. If channeled through, for example, a 501c(4) political non-profit corporation there would be NO obligation to disclose the source of funds. While Del Mar has not experienced this kind of money influence in its local elections, it has happened in other cities, dramatically affecting city council and mayoral elections, and could happen here (see attachments).

Adopting the proposed resolution would put Del Mar on record as disagreeing with the Citizens United case and as in support of an effort to put forward a constitutional amendment to overturn the decision. In our view, adopting the proposed resolution reflects the kind of leadership Del Mar should exercise on important issues of the day.

ATTACHMENTS:

Attachment A – Proposed Resolution

*Due to their size, the following attachments have not been reproduced herein. The documents were included in the January 5, 2015 City Council agenda and are available online at [www.delmar.ca.us/AgendaCenter](http://www.delmar.ca.us/AgendaCenter), or available for review by the public at City Hall, 1050 Camino del Mar, during normal business hours, or by contacting the Administrative Services Department at (858) 755-9313.*

Attachment B - A map showing support among the states

Attachment C - A news article about how Chevron, under Citizens United, poured money into local election campaigns in Richmond, California (LA Times).

Attachment D - A news article about how the Koch Brothers are financing campaigns under Citizens United at the local level (NY Times).

Attachment E - Resolutions from the Cities of Encinitas, Solana Beach, and San Diego similar to the one proposed for Del Mar

Attachment F - A letter to the Del Mar Council from the local Money out of Politics organization; listing of California cities and states in the U.S. adopting similar resolutions; and fact Sheet and FAQs about the issues

Additional materials were provided at the January 5, 2015 City Council meeting, included in the record as “Red Dots.”

## RESOLUTION NO. 2015-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
DEL MAR, CALIFORNIA, EXPRESSING DISAGREEMENT  
WITH THE CITIZENS UNITED SUPREME COURT RULING  
AND EXPRESSING SUPPORT FOR A CONSTITUTIONAL  
AMENDMENT TO OVERTURN THE DECISION

WHEREAS, free and fair elections are essential to American democracy and effective self-governance; and

WHEREAS, in *Citizens United v. Federal Election Commission*, the United States Supreme Court held that independent spending on elections by corporations and other groups could not be limited by government regulation, a decision that allows for unlimited corporate spending in elections; and

WHEREAS, in reaching its decision in *Citizens United*, the Supreme Court interpreted the First Amendment of the Constitution to afford corporations the same free speech protections as natural persons; and

WHEREAS, the *Citizens United* decision has proven to be one of the Court's most controversial decisions and supersedes state and local efforts to regulate corporate, association, and labor union activity in their campaign finance laws; and

WHEREAS, in his eloquent dissent Justice John Paul Stevens stated that "[c]orporations 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 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, Members of Congress are seeking to amend the Constitution in order to reverse the *Citizens United* decision and establish that corporations, associations, and other organizations are not entitled to the entirety of protections of natural persons; and

Whereas, several hundreds of municipalities, including New York City, Los Angeles, San Diego, Encinitas, and Solana Beach have successfully passed resolutions opposing the Supreme Court's interpretation of the Constitution in *Citizens United* and supporting Constitutional amendments; and

WHEREAS, the City of Del Mar has a long history of demonstrating support for an orderly political forum in which individuals may express themselves effectively, for

placing realistic, enforceable limits on the amounts of money that may be contributed to political campaigns in municipal elections, and for restricting contributions from organizations in order to develop a broader base of political efficacy within Del Mar.

NOW, THEREFORE, BE IT RESOLVED:

1. The foregoing recitals are true and correct.
2. The City Council of the City of Del Mar respectfully disagrees with the Supreme Court's interpretation of the Constitution in *Citizens United* regarding the rights of corporations, associations, and labor unions.
3. The Del Mar City Council joins other cities in calling on Congress to begin the process of amending the Constitution to provide that corporations, associations, and other organizations are not entitled to the protections or "rights" of natural persons, specifically so that expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Del Mar, held on the 20<sup>th</sup> day of January, 2015.

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AL CORTI, Mayor  
City of Del Mar

APPROVED AS TO FORM:

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LESLIE E. DEVANEY, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, Andrew Potter, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2015-\_\_\_\_, adopted by the City Council of the City of Del Mar, this 20<sup>th</sup> day of January 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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ANDREW POTTER

Administrative Services Director/City Clerk  
City of Del Mar