

RESOLUTION NO. 27-12A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, CALLING FOR PLACEMENT OF A NON-BINDING ADVISORY MEASURE ON THE NOVEMBER 6, 2012, BALLOT ASKING WHETHER RICHMOND'S CONGRESSIONAL REPRESENTATIVES SHOULD BE INSTRUCTED TO PROPOSE, AND RICHMOND'S STATE LEGISLATORS INSTRUCTED TO RATIFY, AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO PROVIDE THAT CORPORATIONS ARE NOT ENTITLED TO THE CONSTITUTIONAL RIGHTS OF REAL PEOPLE, AND THAT THERE SHOULD BE LIMITS ON ALL SPENDING IN POLITICAL CAMPAIGNS, INCLUDING BALLOT MEASURES AND "INDEPENDENT EXPENDITURES."

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings ("real people"); and,

WHEREAS, corporations are not mentioned in the Constitution and The People have never granted constitutional rights to corporations, nor have We decreed that corporations have authority that exceeds the authority of "We the People;" and,

WHEREAS, corporations can and do make important contributions to our society using powerful advantages that government has wisely granted them, but the Richmond City Council does not consider them real people; and,

WHEREAS, United States Supreme Court Justice Hugo Black in a 1938 dissenting opinion stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and,

WHEREAS, the United States Supreme Court recognized in *Austin v. Michigan Chamber of Commerce* (1990) the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas"; and,

WHEREAS, the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010) reversed the decision in *Austin* and the portion of *McConnell v. Federal Elections Commission* that upheld bans on corporate and labor treasury funds for electioneering, and presents a serious threat to self-government by rolling back previous bans on corporate spending in the electoral process and allows unlimited corporate spending to influence elections, candidate selection, policy decisions and public debate; and,

WHEREAS, the opinion of the four dissenting justices in *Citizens United* noted that corporations have special privileges not enjoyed by real people, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend huge sums on campaign messages that have little or no correlation with the beliefs held by real people; and,

WHEREAS, the law obligates corporations to put profits for shareholders ahead of concerns for the greatest good of society while individual shareholders as real people balance their narrow self interest and broader public interest when making political decisions; and,

WHEREAS, corporations have used the artificial "rights" bestowed upon them by the courts to overturn democratically enacted laws that municipal, state and federal governments passed to curb corporate abuse, thereby impairing local governments' ability to protect their citizens against corporate harms to the environment, to consumers, to workers, to independent businesses, to local and regional economies; and,

WHEREAS, the United States Supreme Court held in *Buckley v. Valeo* (1976) that the appearance of corruption justified some limits on contributions to candidates, but it wrongly rejected other fundamental interests that the citizens of Richmond find compelling such as creating a level playing field and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard; and,

WHEREAS, federal courts in *Buckley* and in *SpeechNow.org v. Federal Election Commission* (2010) overturned spending and contribution limits on independent campaigns that helped level the political playing field because they concluded that the threat of corruption was only applicable to direct contributions to candidates; and,

WHEREAS, the United States Supreme Court in *First National Bank of Boston v Bellotti* (1978) and *Citizens Against Rent Control v. City of Berkeley* (1986) rejected limits on contributions to ballot measure campaigns because they concluded they posed no threat of candidate corruption; 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, a February 2010 Washington Post-ABC News poll found that 80 percent of Americans oppose the U.S. Supreme Court *Citizens United* ruling; and,

WHEREAS, Richmond City Councilmembers have sworn to uphold the United States Constitution in our Oath of Office; and,

WHEREAS, Article V of the United States Constitution empowers and obligates the people of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and the republican form of self-government;

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, AS FOLLOWS:

1. The voters of Richmond should have the opportunity on the November 6, 2012, ballot to approve an advisory measure providing that our congressional representatives as direct agents of the people, should be instructed to do everything within their delegated authority to propose, and our state legislators should be instructed to ratify, an amendment to the United States Constitution that would clarify several misinterpretations of the Constitution by divided actions of the United States Supreme Court that have culminated in the wrongly decided *Citizens United v. Federal Election Commission*; and
2. Such amendment should make clear that corporations shall have only the privileges bestowed upon them by their charters, by state and federal law; and the inalienable rights of the real people who are their shareholders or members, and clarify that money is property, it is not speech, and that in order to ensure that all citizens, regardless of wealth, have an opportunity to express their views to their fellow citizens and to their government on a level playing field, the amount of speech than any one citizen may purchase with their property should be limited to levels that do not overwhelm other citizens; and
3. Pursuant to Elections Code Section 9603, there shall be and there is hereby called and ordered held in the City of Richmond, California, on Tuesday, the 6th day of November, 2012, a special election (the “Special Election”) and the City Clerk is hereby directed to submit this advisory measure to the qualified voters of the City of Richmond at that Special Election.
4. The City Council hereby declares its intent to consolidate the Special Election with the Statewide Election to be held on the date of the Special Election.
5. Pursuant to Elections Code Section 9603, the City Council hereby submits, as a non-binding advisory measure, the following ballot heading and question to be submitted to the voters at the Special Election:

Advisory Vote Only:

“Should Richmond’s congressional representatives be instructed to propose, and Richmond’s state legislators instructed to ratify, an amendment to the United States Constitution to provide that corporations are not entitled to the Constitutional rights of real people, and that there

should be limits on all spending in political campaigns, including ballot measures and "independent" expenditures”?

6. The City Council directs the City Clerk to process submitted written ballot arguments for or against this advisory measure in accordance with the applicable provisions of the Elections Code.
7. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law applicable to an advisory vote.
8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to sign and publish notice as required by law.
9. The City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk..
10. The City Clerk shall certify to the passage and adoption of this Resolution and enter into the original Resolutions.
11. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters of Contra Costa County.
12. If a majority of the Richmond electorate vote to adopt the advisory measure, the City Clerk shall send a written notice to Richmond’s congressional delegation on the twenty-first of January of each year until Congress has proposed an amendment as provided for in Article V of the United States Constitution to address these issues, informing them of the passage of this advisory measure, and the instructions from their constituents.

BY ORDER OF THE CITY COUNCIL OF THE CITY OF RICHMOND

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on March 6, 2012, by the following vote:

AYES: Councilmembers Bates, Ritterman, Rogers, Booze, Beckles, and Mayor McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: Councilmember Butt

Diane Holmes
Clerk of the City of Richmond

(SEAL)

Approved:

Gayle McLaughlin
Mayor

Approved as to form:

Bruce Goodmiller
City Attorney