

RESOLUTION No.

Establish as a position of the Portland City Council that corporations should not receive the same legal rights as natural persons do, that money is not speech and that independent expenditures should be regulated.

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings also known as “natural persons”; and,

WHEREAS, corporations can and do make important contributions to our society, but the City Council does not consider them natural persons; and,

WHEREAS, the right to free speech is a fundamental freedom and unalienable right and free and fair elections are essential to democracy and effective self-governance; and,

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

WHEREAS, the United States Supreme Court held in *Buckley v. Valeo* (1976) that the appearance of corruption justified limits on contribution to candidates, but rejected other fundamental interests that the City Council finds 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, the United States Supreme Court in *Buckley* overturned limits on independent expenditures because it found that the corruption or perception of corruption rationale was only applicable to direct contributions to candidates; and,

WHEREAS, United States Supreme Court Justice John Paul Stevens observed in *Nixon v. Shrink Missouri Government PAC* (2000) that “money is property, it is not speech,”; 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 corporations political ideas” and upheld limits on independent expenditures by corporations; and

WHEREAS, the United States Supreme Court in *Citizens United v. The Federal Election Commission* (2010) reversed the decision in *Austin*, allowing unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes; and,

WHEREAS, prior to *Citizens United* decision unlimited independent campaign expenditures could be made by individuals and associations, though such committees operated under federal contribution limits; and

WHEREAS, given that the *Citizens United* decision “rejected the argument that political speech of corporations or other associations should be treated differently” because the First Amendment

“generally prohibits the suppression of political speech based on the speaker’s identity,” there is a need to broaden the corruption rationale for campaign finance reform to facilitate regulation of independent expenditures regardless of the source of the money for this spending, for or against a candidate; 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, the opinion of the four dissenting justices in *Citizens United* noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets; and,

WHEREAS, corporations are legally required to put profits for shareholders ahead of concerns for the greatest good of society while individual shareholders as natural persons balance their narrow self-interest and broader public interest when making political decisions; and,

WHEREAS, Oregon Senator Jeff Merkley and Oregon Representatives Peter DeFazio, Earl Blumenauer, and Kurt Schrader are pursuing campaign finance reform legislation with a focus on addressing *Citizens United* through amendments to the United States Constitution; and,

WHEREAS, addressing both the *Citizens United* decision, and corporate personhood is necessary; and,

WHEREAS, the City Councils of Missoula, Montana; Boulder, Colorado; and Madison, Wisconsin have referred the issue of corporate personhood to their communities for advisory vote;

NOW, THEREFORE, BE IT RESOLVED that it is the position of the Portland City Council that corporations should not receive the same legal rights as individual human beings (also known as “natural persons”) do; and,

BE IT FURTHER RESOLVED that Portland City Council also determines that the most urgent action needed is to reverse the impacts of United States Supreme Court *Citizens United (2010)* decision and the door it opens for unlimited independent campaign expenditures by corporations that contributes to the undermining impacts that “corporate personhood” has on free and fair elections and effective self-governance; and,

BE IT FURTHER RESOLVED that the City of Portland hereby includes in its 2012 Federal Legislative Agenda support for efforts to pass an Amendment to the United States Constitution, which consistent with this Resolution, reverses the impacts of *Citizens United*, including, but not limited to S. J. Res. 29 introduced by Senator Tom Udall of New Mexico and Senator Jeff Merkley of Oregon and H.J. Res. 72 introduced by Representative Kurt Schrader of Oregon and co-sponsored by Representatives Earl Blumenauer and Peter DeFazio of Oregon; and, respectfully urges Oregon’s Congressional delegation to prioritize congressional proposal of an amendment to the United States Constitution addressing the threats to representative government identified in this resolution so that the states may ratify it; and,

BE IT FURTHER RESOLVED that Portland City Council requests that the City Attorney's Office determine the legality and process of referring an advisory vote to the citizens of Portland on the issue of corporate personhood, and refer their findings back to Council for further consideration; and

BE IT FURTHER RESOLVED that the City of Portland calls on other communities and jurisdictions and organizations like the U.S. Conference of Mayors and National League of Cities to join with us in this action by passing similar Resolutions.

Adopted by the Council:

Mayor Sam Adams

Prepared by: Clay Neal & Jennifer Yocom

Date Prepared: January 5, 2012

LaVonne Griffin-Valade

Auditor of the City of Portland

By

Deputy

Portland, Oregon

FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Jennifer Yocom		2. Telephone No. 503-823-4277	3. Bureau/Office/Dept. Office of the Mayor
4a. To be filed (date): January 5, 2012	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and FPD Budget Analyst: January 11, 2012
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

Establish as a position of the Portland City Council that corporations should not receive the same legal rights as natural persons do, that money is not speech and that independent expenditures should be regulated.

2) Purpose of the Proposed Legislation:

Companion resolution to the federal agenda.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- City-wide/Regional Northeast Northwest North
 Central Northeast Southeast Southwest East
 Central City
 Internal City Government Services

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

No

5) Expense: What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

None

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No

- **Will positions be created or eliminated in future years as a result of this legislation?**

No

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- YES:** Please proceed to Question #9.
- NO:** Please, explain why below; and proceed to Question #10.

9) If “YES,” please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

Local impact is dependent on the federal change that this resolution is asking for.

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

The public at large was consulted both electronically through blog posts, as well as during a number of public forums.

c) How did public involvement shape the outcome of this Council item?

Public input was taken into account in drafting the final wording of the resolution.

d) Who designed and implemented the public involvement related to this Council item?

Jennifer Yocom

e) Primary contact for more information on this public involvement process (name, title, phone, email):

Jennifer Yocom, Deputy Chief of Staff to Mayor Sam Adams, 503-823-4277,
Jennifer.Yocom@portlandoregon.gov

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

Public comment will be welcomed during Council, other public involvement is dependent on federal action.

Mayor Sam Adams

BUREAU DIRECTOR (Typed name and signature)