



City Council Report

City Council Meeting: May 14, 2013

Agenda Item: 8B

To: Mayor and City Council
From: Dean Kubani, Director, Office of Sustainability and the Environment
Subject: Resolution to Support the Move To Amend Campaign

Recommended Action

Staff recommends that the City Council adopt the attached resolution to Support the Move To Amend Campaign's Call for an Amendment to the U.S. Constitution to Abolish Corporate Personhood

Executive Summary

On April 30, 2013 Council directed staff to prepare a resolution in support of the Move To Amend coalition's campaign to reduce the influence of corporations in the electoral process and reflect a national mobilization event on May 10, 2013. This event was meant to raise public awareness regarding the issue of corporate influence on elections and to call for an amendment to the U.S. Constitution to abolish "corporate personhood." The attached resolution expresses the City of Santa Monica's support for these goals.

Background

On January 21, 2010 the U.S. Supreme Court issued a ruling in *Citizens United v. Federal Election Commission* that rolled back legal limits on corporate spending in the electoral process and affirmed that corporations have the rights of "persons." In the wake of this ruling a coalition called MovetoAmend.org was created with the primary goal of amending the U.S. Constitution "to firmly establish that money is not speech, and that human beings, not corporations, are persons entitled to constitutional rights."

Santa Monica's Task Force on the Environment unanimously adopted a motion on December 19, 2011 recommending that City Council adopt a resolution in support of a

campaign by MovetoAmend.org to amend the U.S. Constitution to clearly establish that corporations do not have the same rights as individuals.

A draft resolution prepared by MovetoAmend.org urging Santa Monica's elected federal representatives and other communities and jurisdictions to take similar action, and supporting efforts to increase public awareness about the threats to democracy posed by "corporate personhood," was presented to Council on January 24, 2012. At that meeting Council members discussed the draft resolution but did not vote to approve it citing concern over its wording. Council asked staff to return with a revised version of the resolution that:

1. Expresses support for overturning the *Citizens United* decision
2. Expresses support for the idea that money is not the same as speech
3. Expresses support for an amendment to the U.S. Constitution so as to prohibit corporate contributions to political campaigns.

On March 27, 2012 Council adopted a revised version of the resolution that met these requirements.

On April 30, 2013 Council directed staff to update the original Move To Amend resolution that was presented to Council on January 24, 2012 with a reference to an upcoming Move To Amend national mobilization event and return to Council for a vote. The updated resolution is included as Attachment 1 to this report.

Discussion

Move to Amend recently organized a nationwide mobilization event on May 10, 2013. The mobilization was planned to highlight the 127th anniversary of a May 10, 1886 U.S. Supreme Court decision on *Santa Clara v. Southern Pacific Railroad* which Move To Amend believes first established corporate rights in the U.S. Constitution. The purpose of the mobilization event was to raise public awareness regarding the issue of corporate influence on elections and to call for an amendment to the U.S. Constitution to abolish

“corporate personhood.” The attached resolution expresses the City of Santa Monica’s support for these goals.

Financial Impacts & Budget Actions

There are no financial impacts or budget actions associated with the adoption of this resolution.

Prepared by: Dean Kubani, Director, Office of Sustainability and the Environment

Approved:



Dean Kubani
Director, Office of Sustainability and the Environment

Forwarded to Council:



Rod Gould
City Manager

Attachments:

1. Resolution to Support the Move To Amend Campaign’s Call for an Amendment to the U.S. Constitution to Abolish Corporate Personhood

2. A Resolution of the City Council of The City Of Santa Monica to Safeguard Free and Fair Elections and Our Democratic Process, March 27th, 2012

RESOLUTION NUMBER _____ (CCS)

(City Council Series)

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SANTA MONICA TO SUPPORT THE MOVE TO AMEND
CAMPAIGN'S CALL FOR AN AMENDMENT TO THE U.S. CONSTITUTION TO
ABOLISH CORPORATE PERSONHOOD

WHEREAS, government of, by, and for the people has long been a cherished American value, and We The People's fundamental and inalienable right to self-govern, and thereby secure rights to life, liberty, property, and the pursuit of happiness is guaranteed in the US Constitution and the Declaration of Independence, and;

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

WHEREAS, persons are rightfully recognized as human beings whose essential needs include clean air, clean water, safe and secure food; and

WHEREAS, corporations are entirely human-made legal fictions created by express permission of We The People and our government; and

WHEREAS, corporations can exist in perpetuity, can exist simultaneously in many nations at once, need only profit for survival, and exist solely through the legal charter imposed by the government of We The People; and

WHEREAS, in addition to these advantages, the great wealth of large corporations allows them to wield coercive force of law to overpower human beings and communities, thus denying We The People's exercise of our Constitutional rights; 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 of the United States; and

WHEREAS, interpretation of the US Constitution by appointed Supreme Court justices to include corporations in the term 'persons' has long denied We The Peoples' exercise of self- governance by endowing corporations with Constitutional protections intended for We The People; and

WHEREAS, the illegitimate judicial bestowal of civil and political rights upon corporations usurps basic human and Constitutional rights guaranteed to human persons, and also empowers corporations to sue municipal and state governments for adopting laws that violate 'corporate rights' even when those laws serve to protect and defend the rights of human persons and communities; and

WHEREAS, corporations are not and have never been human beings, and therefore are rightfully subservient to human beings and governments as our legal creations; and

WHEREAS, large corporations' profits and survival are often in direct conflict with the essential needs and rights of human beings; and

WHEREAS, the recent *Citizens United v. the Federal Election Commission* Supreme Court decision that rolled back the legal limits on corporate spending in the electoral process creates an unequal playing field and allows unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes, and forces elected officials to divert their attention from The Peoples' business, or even vote against the interest of their human constituents, in order to ensure competitive campaign funds for their own re-election; and

WHEREAS, large corporations own most of America's mass media and use that media as a megaphone to express loudly their political agenda and to convince Americans that their primary role is that of consumers, rather than sovereign citizens with rights and responsibilities within our democracy, and this forces citizens to toil to discern the truth behind headlines and election campaigning; and

WHEREAS, tens of thousands of people and municipalities across the nation are joining with the Move to Amend campaign to call for an Amendment to the US Constitution to Abolish Corporate Personhood; and

WHEREAS, interest in ending corporate personhood continues to grow, as evidenced by the national Move to Amend mobilization day on May 10, 2013.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AS FOLLOWS:

SECTION 1. To call on our elected federal representatives to join the tens of thousands of citizens, grassroots organizations and local governments across the


country in the Move to Amend campaign to call for an Amendment to the Constitution to Abolish Corporate Personhood and return our democracy, our elections, our communities back to America's human persons and to thus reclaim our sovereign right to self-governance.

SECTION 2. To call on other communities and jurisdictions to join with us in this action by passing similar Resolutions.

SECTION 3. To support education to increase public awareness of the threats to our democracy posed by Corporate Personhood and encourage lively discussion to build understanding and consensus to take appropriate community and municipal actions to democratically respond to these threats.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:


MARSHA JONES MOUTRIE
City Attorney

City Council Meeting: March 27, 2012

Santa Monica, California

RESOLUTION NUMBER 10669 (CCS)

(City Council Series)

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SANTA MONICA TO SAFEGUARD FREE AND FAIR ELECTIONS
AND OUR DEMOCRATIC PROCESS

WHEREAS, our democracy rests on the fundamental principle that our government is by, for and of the people; and

WHEREAS, the people's right to self-governance is secured through the United States Constitution and through the democratic electoral process, which enables the people to exert control over the government they have created; and

WHEREAS, although the law safeguards the people's right to vote for the candidates of their choice, the law does not sufficiently ensure the fairness of the campaign process whereby the people determine how to cast their votes; and

WHEREAS, in the last fifty years, there have been mounting concerns about the influence of money upon the electoral process; and

WHEREAS, these concerns include that the candidate who raises the most money will be best situated to influence upon voters and therefore be elected independent of his or her ability to govern and that a candidate funded mainly by private

interests will take office beholden to them and may consequently use his or her office to promote those private interests rather than the public welfare; and

WHEREAS, corporate funding in the election process has impacted environmental protections and has the potential to impact our local environment; and

WHEREAS, over the last fifty years, such concerns about the impact of money on elections and government have yielded many legislative attempts to regulate campaign contributions and expenditures; and

WHEREAS, the courts have invalidated many of these laws restricting campaign contributions and expenditures based upon their conclusion that the First Amendment protects financial participation in the electoral process as an expressive activity; and

WHEREAS, because campaign contributions and expenditures are protected by the First Amendment, the courts have determined that they may only be restricted if the government can demonstrate a legally sufficient governmental interest, such as averting governmental corruption; and the United States Supreme Court has determined that, though this interest can be demonstrated in the case of contributions made directly to candidates, it cannot be demonstrated in the case of contributions to or expenditures by independent committees, which are not controlled by a candidate; and

WHEREAS, in Citizens United v. the Federal Election Commission, the Supreme Court majority concluded that federal limits on campaign contributions and expenditures violated the First Amendment rights of a union and a political action committee

(incorporated as a nonprofit corporation) because those organizations functioned independently of any candidate; and

WHEREAS, the holding that the First Amendment precludes limiting independent contributions by entities such as political action committees, labor unions, and corporations has sparked a nation-wide movement to curtail the impact of corporate spending on elections by amending the United States Constitution to reverse the Citizens United decision; and

WHEREAS, this movement, known as Move to Amend, urges that "corporations are not people" and "money is not speech"; and

WHEREAS, at its meeting of January 24, 2012, the Council was asked to adopt a resolution supporting Move to Amend's call for an amendment to the United States Constitution to "abolish corporate personhood" and thereby reclaim the right to self-governance; and

WHEREAS, the City Council heard testimony, discussed the text of the proposed resolution, and ultimately concluded that, though it supported the basic tenets of Move to Amend, the resolution should be revised to better reflect this community's understanding of these issues.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AS FOLLOWS:

SECTION 1. The City of Santa Monica supports the efforts to ensure the fairness of our electoral process by reducing the influence of money upon elections,

including placing limits upon corporate donations to political campaigns and by rejecting the notion that corporations must be treated the same as natural persons with regard to corporate participation in political campaigns.

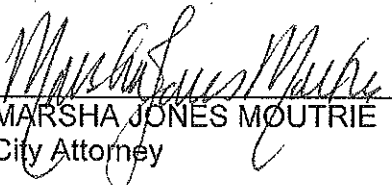
SECTION 2. The City of Santa Monica calls upon its elected federal representatives to safeguard the people's right of self-governance through legislation, including but not limited to a constitutional amendment, that protects the democratic process and our individual rights against the threats posed by the decision in Citizens United v. Federal Election Commission.

SECTION 3. The City of Santa Monica supports education to increase and enhance public discourse about the risks to our democracy arising from unfettered campaign spending by private and special interest entities that are neither natural persons nor voters and therefore should not exert control over our government of, by and for the people.

SECTION 4. The City calls on other communities to join us in this action passing their own similar resolutions.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:


MARSHA JONES MOUTRIE
City Attorney

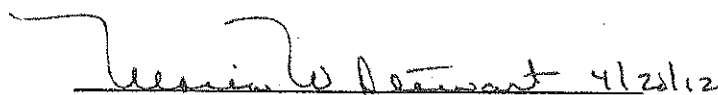
Adopted and approved this 27th day of March, 2012.


Richard Bloom, Mayor

I, Maria M. Stewart, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Resolution No. 10669 (CCS) was duly adopted at a meeting of the Santa Monica City Council held on the 27th day of March, 2012, by the following vote:

AYES: Councilmembers McKeown, O'Day, Holbrook, Shriver, Mayor Pro Tem
Davis, Mayor Bloom
NOES: None
ABSENT: Councilmember O'Connor

ATTEST:


Maria M. Stewart, City Clerk