

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

49-

Sec Substitute

Res No 36897

Agenda No.
RESOLUTION NO.

Title

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>JAN 06 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>Susan Parsons</i> Deputy ACTION TAKEN:
BUREAU APPROVAL Bureau: Office of the Mayor Bureau Head: Mayor Sam Adams	
Prepared by: Jennifer Yocom Date Prepared: January 5, 2012	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date January 12, 2012	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00pm Total amount of time needed: 1 hour (for presentation, testimony and discussion) <i>2 1/2</i>
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	
2. Fish	2. Fish	
3. Saltzman	3. Saltzman	
4. Leonard	4. Leonard	
Adams	Adams	