



AGENDA MEMORANDUM

Future Item for the City Council Meeting of April 23, 2013

Action Item for the City Council Meeting of April 30, 2013

DATE: April 4, 2013

TO: Ronald L. Olson, City Manager

FROM: Tom Tagliabue, Director, Intergovernmental Relations
tomtag@cctexas.com
361.826.3850

Resolution recommending and encouraging the U.S. Congress to pass a Constitutional Amendment reversing the *Citizens United* decision on corporate personhood.

CAPTION:

Resolution recommending and encouraging the United States Congress to pass a Constitutional Amendment establishing that corporations not receive the same legal rights as natural persons; that money not be considered the same as speech, and that independent expenditures be regulated.

PURPOSE:

At the request of Mayor Nelda Martinez, the City Council will be asked to consider a resolution calling for the U.S. Congress to pass a constitutional amendment overturning the *Citizens United v. Federal Election Commission* ("*Citizens United*") decision from January 21, 2010. Groups and individuals that want to overturn the *Citizens United* ruling are pushing for the U.S. Congress to pass a constitutional amendment to overturn the decision. Included in that category are: Common Cause, MoveOn.org, People for the American Way, and the U.S. Conference of Mayors. There are an estimated 500 cities and close to one dozen states that have called for a constitutional amendment to overturn *Citizens United*. So far, in Texas, only the City of Austin has adopted such a resolution. During the City Council's public comment period several Corpus Christi citizens have spoken in favor of the Council taking an active role in this federal legislative agenda item.

An amendment to the U.S. Constitution is only enacted if the resolution is passed by a two-thirds (2/3rds) vote of each chamber of Congress and then is ratified by three-fourths (3/4ths) of the states within a specified time period.

In summary, the United States Supreme Court held that political spending is a form of protected speech under the First Amendment, and the government may not keep corporations or unions from spending money to support or denounce individual candidates in elections. While corporations or unions may not give money directly to

campaigns, they may seek to persuade the voting public through other means, such as creating political action committees. The *Citizens United* decision did not affect the ban on direct contributions from corporations and unions. It is still illegal for companies and labor unions to give money directly to candidates for federal office. The controversy has occurred because the ruling allowed for a new class of political action committees, that as long as they are not directly affiliated with a campaign (“issue PACs” as opposed to “campaign PACs”) they could raise funds without reporting their sources. Karl Rove’s “American Crossroads” and George Soros’ “Friends of Democracy” and American Bridge 21st Century” are examples. The court said that because these funds were not being spent in coordination with a campaign, they were protected speech.

BACKGROUND AND FINDINGS:

A number of bills have been filed in the 113th United States Congress to deal with the issues raised in the *Citizens United* decision.

S. 525 by Sanders (I-VT)

A bill proposing an amendment to the Constitution of the United States to restore the rights of the American people that were taken away by the Supreme Court's decision in the Citizens United case and related decisions, to protect the integrity of our elections, and to limit the corrosive influence of money in our democratic process.

S.J.R. 11 by Sanders (I-VT)

A joint resolution proposing an amendment to the Constitution of the United States to restore the rights of the American people that were taken away by the Supreme Court's decision in the Citizens United case and related decisions, to protect the integrity of our elections, and to limit the corrosive influence of money in our democratic process.

H.J.R. 20 by McGovern (D-MA)

Proposing an amendment to the Constitution of the United States relating to contributions and expenditures with respect to elections.

H.J.R 21 by McGovern (D-MA)

Proposing an amendment to the Constitution of the United States to clarify the authority of Congress and the States to regulate corporations, limited liability companies or other corporate entities established by the laws of any State, the United States, or any foreign state.

H.J.R. 34 by Duetsch (D-FL)

Proposing an amendment to the Constitution of the United States to restore the rights of the American people that were taken away by the Supreme Court's decision in the Citizens United case and related decisions, to protect the integrity of our elections, and to limit the corrosive influence of money in our democratic process.

The U.S. Congress could face a number of policy decisions regarding the *Citizens United* decision – change campaign finance laws, change disclosure and disclaimer requirements, maintain status quo, or any number of other ideas yet to be proposed.

The City’s federal legislative lobbyist, Larry Meyers, believes the *Citizens United* ruling is a larger issue in cities and states than in Washington, D.C. Because of other legislative priorities and a Congressional focus on the federal deficit, budget, jobs, and the economy, it is very doubtful that Congress would act on any of the proposals to

reverse the *Citizens United* decision. He reports that most members feel that the “SuperPacs” have balanced each other out, and with the high cost of campaigns, most members will be very hesitant to further limit their ability to raise campaign or issue promotion funds. That, and the difficulty of any constitutional amendment passing, limits the number of members interested in pursuing this issue.

The Council is expected to discuss this policy topic in April 9, 2013. Staff makes no recommendation about the proposed resolution. The proposed resolution (attached) takes liberally from the U.S. Conference of Mayor’s resolution (also attached).

ALTERNATIVES:

1. The City Council could adopt the resolution.
2. The City Council could revise the resolution and adopt it.
3. The City Council could vote against adopting the resolution.
4. The City Council could take no action.

OTHER CONSIDERATIONS:

None

CONFORMITY TO CITY POLICY:

N/A

EMERGENCY / NON-EMERGENCY:

This is a non-emergency item.

DEPARTMENTAL CLEARANCES:

City Attorney, Assistant City Manager for Business Support Services, City Manager, City’s federal lobbyist

FINANCIAL IMPACT:

☐ Operating ☐ Revenue ☐ Capital ☒ Not applicable

Fiscal Year: 2012-2013	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s)

Comments: None

RECOMMENDATION:

Staff makes no recommendation about the proposed resolution.

LIST OF SUPPORTING DOCUMENTS:

Draft Proposed City Council Resolution

U.S. Conference of Mayors' Adopted Resolution