Passed 9-0

RESOLUTION 12-09

SUPPORTING AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO PROVIDE THAT CORPORATIONS ARE NOT "PEOPLE" AND MONEY IS NOT "SPEECH"

WHEREAS, a representative government of, by, and for the people is at the core of our inalienable right to self-govern – the essence of "We The People;" and

WHEREAS, the right to free speech is a fundamental freedom and inalienable right; and

WHEREAS, self-governance and free speech are essential components of responsive and responsible policy making; and

WHEREAS, Bloomington's policies reflect a vibrant and engaged community *because* citizens govern through their elected representatives; and

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

WHEREAS, the City of Bloomington expressed its commitment to democratic, transparent and fair elections with Resolution 04-26; and

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" whose essential needs include clean air, clean water, healthcare, shelter, safe and secure food; and

WHEREAS, corporations are not mentioned in the U.S. Constitution and are human-created legal fictions manufactured by express permission of The People and our government; and

WHEREAS, corporations have special advantages not enjoyed by natural persons: they can exist in perpetuity, can exist simultaneously in many nations at once, may be managed and controlled by non-residents, need only profit for survival, and exist solely through the legal charter imposed by the government of The People; and

WHEREAS, in 2010, the United States Supreme Court issued a 5-4 opinion in *Citizens United v. Federal Election Commission* holding that 'independent expenditures' for political advertising by corporations could not be limited by government regulations and that corporations are afforded the same free speech protections as natural persons; and

WHEREAS, two propositions underlie the Court's decision: (1) that corporations have the same constitutional rights as natural persons and (2) that when corporations spend money on political advertisements, they are engaging in protected "speech;" and

WHEREAS, while political advertising does not guarantee victory, it does shape and influence voters' perspectives and opinions; and

WHEREAS, *Citizens United* creates an unequal playing field and allows unlimited spending by corporations and super political action committees to influence elections, candidate selection, lawmaking and public policy decisions; and

WHEREAS, in his dissent, Justice John Paul Stevens recognized that "corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their 'personhood' often serves as a useful legal fiction. But they are not themselves members of 'We the People' by whom and for whom our Constitution was established;" and

WHEREAS, *Citizens United* marked a significant doctrinal shift in first amendment law; this shift has been characterized by Justice Stevens as "judge-made doctrine" and a misinterpretation of constitutional text; and

WHEREAS, *Citizens United* overturned longstanding precedent upholding laws prohibiting corporations from spending their general treasury funds on political advertising; and

WHEREAS, in *Austin v. Michigan Chamber of Commerce* (1990), the Court pointed out the threat to a representative 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 upheld limits on independent expenditures by corporations; and

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

WHEREAS, in *Nixon v. Shrink Missouri Government PAC* (2000), United States Supreme Court Justice John Paul Stevens observed that "money is property, it is not speech;" and

WHEREAS, *Citizens United* severely hampers the ability of federal and State governments to enact reasonable regulations regarding corporate political advertising; and

WHEREAS, because *Citizens United* impairs free and fair elections and effective self-governance, it impairs the ability of Bloomington citizens to govern through their elected representatives; and

WHEREAS, the U.S. Supreme Court should overturn its decision in *Citizens United* and the U.S. Constitution should be amended to make clear that corporations do not enjoy the same rights as natural persons; 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 U.S. Constitution to abolish corporate personhood and the doctrine of money as speech;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. The City of Bloomington Common Council stands with the *Move to Amend – South Central Indiana* campaign and communities across the country to defend democracy from the corrupting effects of undue corporate power by amending the United States Constitution to establish that:

1. Corporations are not "people," and only natural persons are endowed with Constitutional rights;
2. Money is not "speech," and therefore regulating political contributions and spending is not equivalent to limiting political speech;
3. In order to ensure a fair and well-functioning electoral process, Congress and the States shall have the authority reasonably to regulate political expenditures and contributions; and
4. Such an amendment should not be construed to abridge the freedom of the press.

SECTION II. We call on our State and federal representatives to enact resolutions and legislation to advance this effort.

SECTION III. The Bloomington Common Council calls on other communities and jurisdictions to join with us in this action by passing resolutions similar to this one.

SECTION IV. The City Clerk shall send a copy of this resolution, duly adopted, to the Indiana Congressional delegation and the President of the United States.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 20th day of JUNE, 2012.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 21st day of JUNE, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 21st day of June, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmembers Mayer, Rollo, Ruff and Sandberg. It opposes the U.S. Supreme Court's interpretation of the Constitution in *Citizens United v. Federal Election Commission* and supports an amendment to the U.S. Constitution making clear that corporations are not "people" and that money is not "speech." The resolution calls upon the State and federal representatives to enact resolutions and legislation to advance the effort of amending the Constitution. The City Clerk is directed to send copies of this resolution to the Indiana Congressional Delegation and the President of the United States.

** Note: This resolution was revised after its issuance in the legislative packet, but before introduction at the Regular Session to include subsection (3) of Section I.*

Signed copies to:
legal
controller
Jim/Tami Allison
CA/CA
clerk