

**Fairview Community Council**  
**Resolution Number: \_\_\_\_ - \_\_\_\_**

**A resolution opposing the United State Supreme Court’s interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations, supporting an amendment to the Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calling on Congress to begin the process of amending the Constitution.**

Whereas, In 2010 the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission*, holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and

Whereas, This decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

Whereas, In reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporations the same free speech protections as natural persons; and

Whereas, In his eloquent dissent, Justice John Paul Stevens rightly 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, The Court’s decision in *Citizens United* severely hampers the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

Whereas, Corporations should not be afforded the entirety of protections or “rights” of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech; and

Whereas, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections; now, therefore, be it

Therefore be it Resolved, That the Fairview Community Council opposes the Supreme Court’s interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations, and supports amending the Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calls on our elected representatives in Local (Assemblyman Flynn) and State government (Senator Ellis/Representative Gara) and in Congress (Senators Murkowski and Begich, Representative Young) to begin the process of amending the Constitution.

Passed this \_\_\_ day of \_\_\_\_\_, 2012 on a vote of \_\_\_ Ayes, \_\_\_ Nays and \_\_\_ Abstaining

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President, Fairview Community Council

# CONTEXT

## I. The Supreme Court's *Citizens United* Decision

In January 2010, the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission*, holding that independent spending on elections by corporations and other groups could not be limited by government regulations.<sup>1</sup> Specifically, the Court held that a provision of the federal campaign finance law that prohibited certain corporate-funded television broadcasts in the 60 days before a general election (or the 30 days before a primary) violated the First Amendment. In reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporations the same free speech protections as natural persons. According to the majority, corporations “should not be treated differently under the [First Amendment](#) simply because such associations are not ‘natural persons’.”<sup>2</sup> Thus, this decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions.

In an eloquent and spirited dissent, Justice John Paul Stevens took issue with the majority's decision. According to Justice Stevens, the majority's opinion is contrary to the true purpose of the First Amendment, as well as common sense. As explained by Justice Stevens:

[C]orporations 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.<sup>3</sup>

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At bottom, the Court's opinion is [ ] a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.<sup>4</sup>

*Citizens United* has proven to be one of the Court's most controversial decisions. Indeed, as summed up by one commentator, “the widespread assumption that the decision ‘changed

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<sup>1</sup> *Citizens United v. Federal Election Comm'n*, 558 U.S. \_\_\_, 130 S.Ct. 876 (2010).

<sup>2</sup> *Citizens United*, 130 S.Ct. at 900.

<sup>3</sup> *Citizens United*, 130 S.Ct. at 972 (Stevens, J. *dissenting*).

<sup>4</sup> *Citizens United*, 130 S.Ct. at 979 (Stevens, J. *dissenting*).

everything' about campaign finance regulation may well be self-reinforcing.”<sup>5</sup> Many scholars and good government groups immediately predicted that *Citizens United* would “open the floodgates” to massive corporate spending in elections all over the country.<sup>6</sup> Even more disconcerting, is the potential for corporate interests to wield considerable influence over candidates by threatening to spend substantial corporate funds toward their defeat.<sup>7</sup>

There is mounting evidence that these concerns and predictions are already coming true. In the first national election after *Citizens United*, spending by outside groups surged by 400%.<sup>8</sup> Nearly half of the money spent came from ten groups, seven of which did not fully disclose their donors.<sup>9</sup> All told, outside groups, many funded largely or entirely by corporations, spent nearly \$300 million to influence federal elections. Moreover, these groups appear to have been very successful in influencing election outcomes. In 80% of elections in which partisan control changed hands, spending by outside groups favored the winning candidate.<sup>10</sup>

## **II. Proposed Federal Legislation**

In response to these developments, several members of Congress are seeking to amend the Constitution in order to reverse the *Citizens United* decision and to establish that corporations are not entitled to the entirety of protections or “rights” of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech.<sup>11</sup>

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<sup>5</sup> Mark Schmitt, “How We Got Here,” *The American Interest*, July-August 2010.

<sup>6</sup> Kenneth P. Vogel, “Court decision opens floodgates for corporate cash,” *Politico*, January 21, 2010.

<sup>7</sup> David D. Kirkpatrick, “Lobbyists Get Potent Weapon in Campaign Ruling,” *The New York Times*, January 22, 2010.

<sup>8</sup> Public Citizen, *12 Months After: The Effects of Citizens United on Elections and the Integrity of the Legislative Process* 9 (Jan. 2011), available at <http://www.citizen.org/documents/Citizens-United-20110113.pdf>.

<sup>9</sup> *Id.* at 9-10.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> There have been at least six proposed amendments introduced in the current session of Congress, including H.J. Res. 72, H.J. Res. 78, H.J. Res. 86, H.J. Res. 88, S.J. Res. 29, and S.J. Res. 33.