STAFF SUMMARY REPORT

Report to the City Manager

Council Meeting Of: May 5, 2015

Account Code No. #: N/A

Budgeted Amount: N/A

City Manager
Originating Department

Mary Ann Eaton
Prepared By

April 29, 2015
Date Prepared

Agenda Title: A Resolution in support of abolishing corporate constitutional rights and creating a truly representative democracy.

Recommendation: N/A

Discussion:

As requested by Oxford citizens and sponsored by Councilor Snyder and Vice Mayor Rousmaniere. Please see the attached information and proposed Resolution of Oxford City Council.

Approved By:

Department Head:
City Manager:

Initial Date
RESOLUTION NO.

A RESOLUTION IN SUPPORT OF ABOLISHING CORPORATE CONSTITUTIONAL RIGHTS AND CREATING A TRULY REPRESENTATIVE DEMOCRACY.

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

WHEREAS, corporations are not and have never been human beings, but instead are legal constructs created by the People through our representative government and are therefore subject to our interests; and

WHEREAS, money is property, not speech, and people with the most property do not have more rights to speech than the average person; and

WHEREAS, in a 2010 decision by the U.S. Supreme Court, Citizens United v. the Federal Election Commission, the Supreme Court overturned key provisions of the federal Campaign Reform Act enacted in 2002, and ruled that corporate entities, and labor unions, have the same rights as individuals to unrestricted spending on political speech, restricting the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations protecting the health, safety, and welfare of people and small businesses; and

WHEREAS, corporations can make important contributions to our society, but granting corporate constitutional rights benefit only large corporations, disadvantaging local interests and the small and family-owned businesses that governments most closely work with and support; and

WHEREAS, the people of the United States have previously used the constitutional amendment process to correct decisions of the U.S. Supreme Court that are widely deemed to be egregious or wrongly decided or significantly out-of-step with the prevailing values of the populace; and

WHEREAS, more than 300 cities, towns, and states have already passed similar calls for a constitutional amendment protecting the sovereignty of the People; and

WHEREAS, local governments have always played an essential role in protecting the integrity of our political processes.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: The City of Oxford joins the growing number of communities across the country in calling for an Amendment to the Constitution of the United States to declare that only human beings, not corporations, are endowed with constitutional rights, and further to ensure that the judiciary shall not construe the spending of money to be protected speech under the First Amendment.

SECTION 2: The City of Oxford supports education to increase public awareness of the threats to our democracy posed by corporate personhood and the doctrine of money as speech.

SECTION 3: The City of Oxford calls on our township, county, state and federal representatives to enact similar resolutions and legislation to advance this effort and directs the City Manager to send copies of this resolution to our elected representatives in these jurisdictions.
SECTION 4: This resolution shall take effect at the earliest date allowed by law.

MAYOR

ADOPTED:

ATTEST:

CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: STEVE SNYDER/KATE ROUSMANIERE

PREPARED BY: LAW (STAFF)
Why Oxford City Council should pass a resolution calling for a Constitutional amendment that says corporations are not people, and money is not speech.

Because these concepts have direct local impact and there is a growing multi-partisan national movement to address them

Corporations come in all sizes and shapes and serve an important function in our social and economic systems. They are legal constructs created by the People through our representative government. They are not people.

People across the political spectrum took notice when—based on the assumption that corporations are people with the same Constitutional rights as living, breathing human beings—the U.S. Supreme Court in Citizens United v. the Federal Election Commission (2010) overturned key provisions of the federal Campaign Reform Act enacted in 2002. The Court ruled that corporate entities, and labor unions, have the same rights as individual people to nearly unrestricted spending on political speech.

A 2010 Washington Post-ABC News poll revealed relatively little difference of opinion across party lines on the issue among those opposed to the ruling: Democrats (85%), Republicans (76%) and independents (81%).

A 2014 Public Citizen poll showed that the impact of special interest lobbying and election spending on our political system is still viewed unfavorably by: Republicans (79%), Democrats (76%), and independents (74%).

Since Citizens United more than 300 communities and states from a variety of regions and political climates have passed resolutions or initiatives calling for an amendment, including Montana, where voters approved a statewide resolution by 75%.

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<thead>
<tr>
<th>Ohio resolutions</th>
<th>Ohio Initiatives</th>
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<tr>
<td>Akron, 2012</td>
<td>Brecksville, 2012 (52%)</td>
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<tr>
<td>Athens 2012</td>
<td>Newburgh Heights 2012 (73%)</td>
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<tr>
<td>Oberlin, 2012</td>
<td>Defiance 2013 (67%)</td>
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<tr>
<td>Barberton, 2012</td>
<td>Cleveland Heights 2013 (78%)</td>
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<td>Fremont, 2012</td>
<td>Chagrin Falls, 2014 (66%)</td>
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<td>Mentor, 2014 (70%)</td>
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<td>Lakewood, 2014</td>
<td>Dayton, 2015</td>
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<td>South Euclid, 2014</td>
<td>Canton, 2015</td>
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Because it is good for business and the local economy

According to the American Independent Business Alliance (that filed a Friend of the Court Brief with the Supreme Court against Citizens United), each dollar spent at independent businesses returns three times more money to the local economy than one spent at a chain (hundreds of times more than buying from an online mega-retailer), helping to create local jobs and local wealth.

In a 2012 poll sponsored by the American Sustainable Business Council, Main Street Alliance, and Small Business Majority:
66% of small business owner respondents viewed the Citizens United decision as bad for small business.

88% of respondents view the role money plays in politics negatively; 68% view it very negatively.

A 2014 survey conducted on behalf of the Small Business Majority showed that “small business owners believe big businesses have an unfair influence on government decisions and the political process—which gives them a competitive advantage over small firms...and that they want government to [adopt] policies that level the playing field with big business and bring fairness to our campaign finance laws.”

72% of small business owners say major changes are needed to our campaign finance system

48% of respondents identified as Republican, 32 percent as Democrat and 11 percent as independent or other.

Because we, the people, decide the way Oxford should be

We, the people of the City of Oxford, Butler County, Ohio, in order to secure for ourselves the benefits of local self-government under the constitution of the State of Ohio, do ordain and establish this Charter for the government of the Municipality of Oxford. [Preamble to Oxford Charter 1960]

Oxford is a special place in which to live, attend school, and visit, in part due to the number of small, locally owned businesses and franchises that line High Street and other areas, and very much due to the people who own those businesses and the people who live and work here. Local government plays an important role in preserving the character of Oxford, in protecting the local economy, and in protecting the rights of the people.

Residents, including local owners of businesses, with roots in our community should be the ones involved in key decisions that shape our lives and local economic and physical environment, not corporate executives living in Arkansas, New York, France or China.

Efforts to expand and protect our freedom have always been ushered in by the actions of grassroots people and the local governments closest to them. Almost all constitutional amendments began with local citizens, and rarely has action to amend the constitution started at the national level. Ohio Secretary of State Jon Husted ruled in 2012 that a similar call by citizens of Brecksville, Ohio for a constitutional amendment to address corporate constitutional rights and money in politics was a legitimate interest of city government. The Ohio Supreme Court upheld his decision.

The United States Conference of Mayors passed a resolution in 2012 stating that the Citizens United decision “contributes to the undermining impacts that ‘corporate personhood’ has on free and fair elections and effective self-governance.” They also called for other communities and jurisdictions to join them in passing their own resolutions.

GRANTING CORPORATIONS THE SAME CONSTITUTIONAL RIGHTS AS “WE THE PEOPLE” THREATENS DEMOCRACY, AND LIMITS THE RIGHTS OF THE CITIZENS OF OXFORD TO DECIDE FOR OURSELVES THE OXFORD WE WANT.

This handout was prepared by Take Back Democracy – Oxford, a coalition of people and groups from the community and university, and a program of Oxford Citizens for Peace and Justice.
ESTABLISH AS A POSITION OF THE UNITED STATES CONFERENCE OF MAYORS 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 United States Conference of Mayors 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 United States Conference of Mayors 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, 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 United States Conference of Mayors 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 the United States Conference of Mayors 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 United States Conference of Mayors calls on other communities and jurisdictions and organizations like National League of Cities to join with us in this action by passing similar Resolutions.

RESOLUTION ADOPTED JUNE 2012

Section 1. [Artificial Entities Such as Corporations Do Not Have Constitutional Rights]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

Section 2. [Money is Not Free Speech]

Federal, State, and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens, regardless of their economic status, have access to the political process, and that no person gains, as a result of their money, substantially more access or ability to influence in any way the election of any candidate for public office or any ballot measure.

Federal, State, and local government shall require that any permissible contributions and expenditures be publicly disclosed.

The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

*Introduced in Congress February 11, 2013  April 29, 2015*