

## Board of County Commissioners Agenda Request

**Date of Meeting:** July 21, 2015

**Date Submitted:** July 8, 2015

**To:** Honorable Chairperson and Members of the Board

**From:** Robert M. Presnell, County Administrator  
Rick Soskis, Citizen Advocate of Election Integrity

**Subject:** Approval of Resolution 15-005, To Support the Move to Amend Campaign to Call for an Amendment to the Constitution to Abolish Corporate Personhood and the Doctrine of Money as Speech and Return our Democracy, our Elections, our Communities to America's Human Persons and to Thus Claim our Sovereign Right to Self-Governance

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### **Statement of Issue:**

This item seeks Board approval of Resolution 15-005, To Support the Move to Amend campaign to call for an Amendment to the Constitution to Abolish Corporate Personhood and the doctrine of Money as Speech and return our democracy, our elections, our communities to America's human persons and to thus claim our sovereign right to self-governance; and authorize the Chairperson to sign.

### **Background:**

The U.S. Supreme Court rulings of *Citizens United v. Federal Elections Commission* and *McCutcheon v. Federal Election Commission*, and the cases on which the Supreme Court relied, including *Buckley v. Valeo*, overturned one hundred years of settled law that protected the integrity of our electoral system.

*Citizens United v. Federal Election Commission*, No. 08-205, 558 U.S. 310 (2010), is a U.S. constitutional law case dealing with the regulation of campaign spending by organizations. The United States Supreme Court held that the First Amendment prohibited the government from restricting independent political expenditures by a nonprofit corporation. The principles articulated by the Supreme Court in the case have also been extended to for-profit corporations, labor unions and other associations.

In the case, the conservative lobbying group Citizens United wanted to air a film critical of Hillary Clinton and to advertise the film during television broadcasts in apparent

violation of the 2002 Bipartisan Campaign Reform Act (commonly known as the McCain–Feingold Act or "BCRA"). Section 203 of BCRA defined an "electioneering communication" as a broadcast, cable, or satellite communication that mentioned a candidate within 60 days of a general election or 30 days of a primary, and prohibited such expenditures by corporations and unions. The United States District Court for the District of Columbia held that §203 of BCRA applied and prohibited Citizens United from advertising the film *Hillary: The Movie* in broadcasts or paying to have it shown on television within 30 days of the 2008 Democratic primaries. The Supreme Court reversed this decision, striking down those provisions of BCRA that prohibited corporations (including nonprofit corporations) and unions from making independent expenditures and "electioneering communications". The majority decision overruled *Austin v. Michigan Chamber of Commerce* (1990) and partially overruled *McConnell v. Federal Election Commission* (2003). The Court, however, upheld requirements for public disclosure by sponsors of advertisements (BCRA §201 and §311). The case did not involve the federal ban on direct contributions from corporations or unions to candidate campaigns or political parties, which remain illegal in races for federal office.

The Supreme Court held in *Citizens United* that it was unconstitutional **to ban free speech** through the limitation of independent communications by corporations, associations, and unions, i.e. that corporations and labor unions may spend their own money to support or oppose political candidates through independent communications like television advertisements. This ruling was frequently characterized as permitting corporations and unions to donate to political campaigns, or as removing limits on how much a donor can contribute to a campaign. However, these claims are incorrect, as the ruling did not affect the 1907 Tillman Act's ban on corporate campaign donations (as the Court noted explicitly in its decision), nor the prohibition on foreign corporate donations to American campaigns, nor did it concern campaign contribution limits. The *Citizens United* decision did not disturb prohibitions on corporate contributions to candidates, and it did not address whether the government could regulate contributions to groups that make independent expenditures. The *Citizens United* ruling did however remove the previous ban on corporations and organizations using their treasury funds for direct advocacy. These groups were freed to expressly endorse or call to vote for or against specific candidates, actions that were previously prohibited.

Justice Kennedy's majority opinion found that the BCRA §203 prohibition of all independent expenditures by corporations and unions violated the First Amendment's protection of free speech.

### **Analysis:**

The Supreme Court ruling on *Citizens United* provides for *unlimited* contributions from wealthy corporations to Super PACs which are empowered to support or attempt to demolish the campaigns of candidates of their choice by accordingly funding positive advertising or attack ads. The names of contributors under this first of two rulings, however, must be identified (unlike the McCutcheon ruling). The *Citizens United* ruling relied on the First Amendment and fundamentally equates money with speech.

Compounding the problem, the *McCutcheon* ruling further threatens electoral integrity by allowing wealthy individuals to contribute to an unlimited number of politicians without divulging the names of the contributors.

The above two rulings speak to the equating of money with speech and how that threatens electoral integrity, but there exists one more very important threat to the survival of our republic, and that is equating corporations with people ("personhood"). This provides corporations with constitutional rights, including the 14th Amendment right of equal protection under the law. This can affect decisions made at the local level since all corporations must be treated the same. Consider, for instance, a corporation that is not seen as desirable wishes to install itself in a given community where other corporations have been permitted to exist. Corporations are created *by the People*. To provide corporations with the same rights as the People who created them makes no sense.

***The only way*** to reverse these decisions by the Supreme Court, which made them the law of the land, is to provide a Constitutional Amendment. The provided Resolution will contribute to the groundswell of influence on the Florida Legislature that will ultimately cause Florida to join the other sixteen States that have passed resolutions calling on Congress to provide for a Constitutional Amendment. Once two-thirds of the States pass resolutions then Congress *must* call for the convention. Following the convention, which will define the Amendment, three-quarters of the States must ratify it for it to become law.

Basically, this is a process of eliminating the equating of money with speech and corporations with people.

**Fiscal Impact:**

None

**Options:**

1. Approve Resolution 15-005 and authorize the Chairperson to sign.
2. Do not approve.
3. Board direction.

**County Administrator's Recommendation**

Option 3.

**Attachment:**

Resolution 15-005



## RESOLUTION NUMBER 15-005

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS, GADSDEN COUNTY, FLORIDA, TO SUPPORT THE MOVE TO AMEND CAMPAIGN TO CALL FOR AN AMENDMENT TO THE CONSTITUTION TO ABOLISH CORPORATE PERSONHOOD AND THE DOCTRINE OF MONEY AS SPEECH AND RETURN OUR DEMOCRACY, OUR ELECTIONS, OUR COMMUNITIES TO AMERICA'S HUMAN PERSONS AND TO THUS CLAIM OUR SOVEREIGN RIGHT TO SELF-GOVERNANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

*Whereas*, government of, by, and for the people has long been a cherished American value, and We The People's fundamental and inalienable right to self-govern, and thereby secure rights to life, liberty, property, and the pursuit of happiness is guaranteed in the US Constitution and the Declaration of Independence, and;

*Whereas*, free and fair elections are essential to democracy and effective self-governance, and

*Whereas*, persons are rightfully recognized as human beings whose essential needs include clean air, clean water, safe and secure food, and

*Whereas*, corporations are entirely human-made legal fictions created by express permission of We The People and our government, and

*Whereas*, corporations can exist in perpetuity, can exist simultaneously in many nations at once, need only profit for survival, and exist solely through the legal charter imposed by the government of We The People, and

*Whereas*, in addition to these advantages, the great wealth of large corporations allows them to wield coercive force of law to overpower human beings and communities, thus denying We The People's exercise of our Constitutional rights, and

*Whereas*, corporations are not mentioned in the Constitution, and The People have never granted constitutional rights to corporations, nor have We decreed that corporations have authority that exceeds the authority of We The People of the United States, and

*Whereas*, interpretation of the US Constitution by appointed Supreme Court justices to include corporations in the term 'persons' has long denied We The Peoples' exercise of self-governance by endowing corporations with Constitutional protections intended for We The People, and

*Whereas*, the illegitimate judicial bestowal of civil and political rights upon corporations usurps basic human and Constitutional rights guaranteed to human persons, and also empowers corporations to sue municipal and state governments for adopting laws that violate 'corporate rights' even when those laws serve to protect and defend the rights of human persons and communities, and

*Whereas*, corporations are not and have never been human beings, and therefore are rightfully subservient to human beings and governments as our legal creations, and

**Whereas**, large corporations' profits and survival are often in direct conflict with the essential needs and rights of human beings, and

**Whereas**, the recent Citizens United v. the Federal Election Commission Supreme Court decision that rolled back the legal limits on spending in the electoral process creates an unequal playing field and allows unlimited spending by wealthy individuals, corporations and other entities to influence elections, candidate selection, policy decisions and sway votes, and forces elected officials to divert their attention from The Peoples' business, or even vote against the interest of their human constituents, in order to ensure competitive campaign funds for their own re-election, and

**Whereas**, the judicial interpretation to construe spending money in political campaigns as speech is contrary of the notion of one person, one vote and allows those with the most money to have an unfair advantage in a political system that should be about ensuring that all citizens have equal access to the political process and to influencing the outcome of elections, and

**Whereas**, money is property, not speech, and

**Whereas**, large corporations own most of America's mass media and use that media as a megaphone to express loudly their political agenda and to convince Americans that their primary role is that of consumers, rather than sovereign citizens with rights and responsibilities within our democracy, and this forces citizens to toil to discern the truth behind headlines and election campaigning, 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 US Constitution to Abolish Corporate Personhood and the doctrine of Money as Speech; and

**Therefore Be It Resolved** that the Gadsden County Board of County Commissioners hereby calls on our Legislators to join the tens of thousands of citizens, grassroots organizations and local governments across the country in the Move to Amend campaign to call for an Amendment to the Constitution to Abolish Corporate Personhood and the doctrine of Money as Speech and return our democracy, our elections, our communities to America's human persons and to thus claim our sovereign right to self-governance.

**And Be It Further Resolved** that the Gadsden County Board of County Commissioners calls on other communities and jurisdictions to join with us in this action by passing similar Resolutions.

**PASSED, APPROVED, AND EFFECTIVE** on this 21st day of July, 2015.



**GADSDEN COUNTY  
BOARD OF COUNTY COMMISSIONERS**

Attest:  
Gadsden County, Florida

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Nicholas Thomas, Clerk of Court

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Brenda A. Holt, Chairperson