

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



---

Action: A Resolution Calling a City Election on November 6, 2012, for the Purpose of Submitting an Advisory Measure to the Legal Electors of the City of Eugene Concerning Constitutional Rights of Corporations

---

Meeting Date: July 23, 2012  
Department: City Attorney's Office  
*www.eugene-or.gov*

Agenda Item Number: 6  
Contact: Glenn Klein  
Contact Telephone Number: 541-682-8447

---

## ISSUE STATEMENT

The City Council will consider calling an election on November 6, 2012, for the purpose of submitting an advisory measure to the electors concerning the constitutional rights of corporations.

## BACKGROUND

On February 15, 2012, the council adopted Resolution No. 5055 asserting that corporations, unions and special interest groups should not have the constitutional rights that natural persons possess. Common Cause Oregon has requested that the council refer a measure to the voters of the City of Eugene to express their opinions on the constitutional rights of corporations. On July 9, 2012, the council directed the City Manager to bring back a resolution calling an election on November 6, 2012, for this purpose.

If the council refers the advisory question, the council also will need to appoint up to three councilors to serve on the proponents' committee to write the argument in favor of the measure. Additionally, the council will need to authorize the expenditure of funds for the additional costs, including publication of the advertisement for the opponents' committee, publication of notice related to the measure, and the printing of the additional pages for the voters' pamphlet (ballot measure; resolution; proponents' and opponents' written arguments and rebuttals; and any other argument for or against the measure).

The council has also asked what measures had been referred to the electors in the last ten years. The measures referred since 2002 are as follows:

- 2011:       • Temporary income tax for schools.
- 2008:       • Gas tax sunset extension.
  - GO bonds for street preservation projects.
  - Police Auditor Charter amendment changes.
- 2007:       • 3¢ gas tax.
  - Urban Renewal Plan for amendments Downtown.
- 2006:       • Local option levy for Library.
  - GO bonds for Parks, Recreation, and Open Space Projects.

- 2005: • Police Auditor Charter amendment.
- 2004: • GO bonds for Civic Center vision project.
- 2002: • Four-year local option levy for Library.
- GO bonds for Fire and Emergency Services projects.
- Amending the Eugene Charter (ethics and conflicts of interests; hiring and firing of city department directors; appointment of a city attorney; filling of vacancies; liability for unauthorized expenditures; adoption and effective date of ordinances; ordinances adopted by initiative; and “housekeeping” amendments).
- Four-year local option levy to support youth, including school-related activities.

**RELATED CITY POLICIES**

None.

**COUNCIL OPTIONS**

The council may adopt the resolution as presented, adopt a modified resolution, or decline to adopt the resolution.

**CITY MANAGER’S RECOMMENDATION**

None.

**SUGGESTED MOTION**

I move to adopt Resolution 5069 submitting an advisory question on rights of corporations and to authorize the expenditure of funds from the General Fund contingency account to cover expenses for the voters’ pamphlet.

*If that motion passes:*

I move to appoint \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ to serve as members of the proponents’ committee to prepare the argument and rebuttal in favor of the measure.

**ATTACHMENTS**

A. Proposed Resolution

**FOR MORE INFORMATION**

Staff Contact: Glenn Klein  
 Telephone: 541-682-8447  
 Staff E-Mail: glenn.klein@ci.eugene.or.us

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION CALLING A CITY ELECTION ON NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING AN ADVISORY MEASURE TO THE LEGAL ELECTORS OF THE CITY OF EUGENE CONCERNING CONSTITUTIONAL RIGHTS OF CORPORATIONS.**

**The City Council of the City of Eugene finds that:**

**A.** On February 15, 2012, the Eugene City Council passed Resolution No. 5055 asserting its opinion that corporations, unions and special interest groups should not have the constitutional rights that natural persons possess. A copy of Resolution No. 5055 is attached to this Resolution as Exhibit A.

**B.** Common Cause Oregon, a nonpartisan nonprofit advocacy organization, has requested that the voters of the City of Eugene be given the opportunity to express their opinions on the constitutional rights of corporations.

**C.** The Eugene City Council agrees that an advisory measure should be placed on the November 6, 2012 ballot.

**NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:**

**Section 1.** A City election is called for the purpose of submitting to the qualified electors of the City of Eugene an Advisory Measure concerning the constitutional rights of corporations.

**Section 2.** The ballot measure shall be as follows:

CAPTION: Advisory question on constitutional rights of corporations.

ADVISORY QUESTION: Shall voters request that Congress send to States constitutional amendment declaring corporations do not possess constitutional rights of natural persons?

SUMMARY: This measure is an advisory question. Eugene voters are being asked whether Congress should refer to the States a constitutional amendment declaring that corporations do not possess the constitutional rights that natural persons possess. On February 15, 2012, the Eugene City Council passed Resolution No. 5055. That Resolution requested that Congress send to the States such a proposed constitutional amendment. A “yes” vote supports asking

Congress to forward the constitutional amendment. A “no” vote opposes asking Congress to forward the constitutional amendment.

**Section 2.** The City Council orders this City election to be held in the City of Eugene, Oregon, concurrently with the general election on the 6<sup>th</sup> day of November, 2012, in accordance with the provisions of Chapter 254 of the Oregon Revised Statutes, and the ballots shall be counted and tabulated and the results certified as provided by law.

**Section 3.** The City Recorder is directed to give not less than ten days’ notice of the City election by publication of one notice in the Register Guard, a newspaper published in the City and of general circulation within the City.

**Section 4.** This Resolution shall become effective immediately upon its adoption.

**The foregoing Resolution adopted the \_\_\_\_ day of July, 2012.**

---

**Deputy City Recorder**

---

**COUNCIL RESOLUTION NO. 5055**

**A RESOLUTION REQUESTING THAT THE UNITED STATES CONGRESS REFER TO THE STATES AN AMENDMENT TO THE U.S. CONSTITUTION DECLARING THAT CORPORATIONS DO NOT POSSESS THE CONSTITUTIONAL RIGHTS THAT NATURAL PERSONS POSSESS.**

**PASSED: 6:0**

**REJECTED:**

**OPPOSED: Farr**

**ABSENT: Clark**

**CONSIDERED: February 15, 2012**

**RESOLUTION NO. 5055**

**A RESOLUTION REQUESTING THAT THE UNITED STATES CONGRESS REFER TO THE STATES AN AMENDMENT TO THE U.S. CONSTITUTION DECLARING THAT CORPORATIONS DO NOT POSSESS THE CONSTITUTIONAL RIGHTS THAT NATURAL PERSONS POSSESS.**

**The City Council of the City of Eugene finds that:**

- A.** Each year, the City of Eugene updates its Federal Legislative Agenda.
- B.** The United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings also known as “natural persons.”
- C.** Corporations can and do make important contributions to our society, but they are not natural persons.
- D.** While state and federal governments may provide certain privileges to corporations, these privileges should not equate to the same rights of natural persons protected by the United States Constitution.
- E.** 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. However, money is not speech, and therefore regulating political contributions and spending is not the equivalent to limiting political speech.
- F.** The United States Supreme Court held in *Buckley v. Valeo* (1976) that the appearance of corruption justified limits on contributions to candidates, but rejected other fundamental interests that the City Council 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.
- G.** 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 corporation’s political ideas” and upheld limits on independent expenditures by corporations.
- H.** The United States Supreme Court in *Citizens United v. The Federal Election Commission* (2010) overruled the decision in *Austin* and the portion of *McConnell v. Federal Election Commission* (2003) that had upheld restrictions on independent corporate expenditures, holding that the First Amendment protects unlimited direct corporate and union spending to influence elections, candidate selection, and policy decisions and to sway votes.

## Exhibit A

I. Prior to the *Citizens United* decision, unlimited independent campaign expenditures could be made by individuals and associations, though such committees operated under federal contribution limits.

J. 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 consider other reasons in addition to corruption or the perception of corruption regulating independent expenditures for or against a candidate.

K. 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.

L. Corporations often put profits for shareholders ahead of concerns for the greatest good of society.

M. Oregon Senator Jeff Merkley and Oregon Representatives Peter DeFazio, Earl Blumenauer, and Kurt Schrader are pursuing campaign finance reform legislation with a focus on addressing the *Citizens United* decision through an amendment to the United States Constitution.

N. Addressing both the *Citizens United* decision and corporate personhood is necessary.

### **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:**

**Section 1.** Corporations, unions and special interests should not have the constitutional rights that natural persons possess.

**Section 2.** Given its impact on free and fair elections and effective self-governance, the Eugene City Council determines that the most urgent action needed to address the negative impacts of United States Supreme Court *Citizens United* (2010) decision is to stop unlimited independent campaign expenditures by corporations, unions and special interest groups.

**Section 3.** The City of Eugene hereby includes in its 2012 Federal Legislative Agenda support for an Amendment to the United States Constitution which reverses the impacts of *Citizens United*, including, but not limited to the provisions of the current drafts of S.J. Res. 29 introduced by Senator Tom Udall of New Mexico and Senator Jeff Merkley of Oregon and H.J. Res. 72 introduced by Representative Kurt Schrader of Oregon and co-sponsored by Representative Earl Blumenauer and Peter DeFazio of Oregon; and, respectfully urges Oregon’s Congressional delegation to prioritize congressional proposal of an amendment to the United States Constitution addressing the threats to representative government identified in this Resolution so that the states may ratify it.

Exhibit A

**Section 4.** The City of Eugene calls on the Oregon Legislature, other communities, jurisdictions, and organizations to join with us in this action by passing similar resolutions.

**Section 5.** This Resolution is effective immediately upon its passage by the City Council.

**The foregoing Resolution adopted the 15<sup>th</sup> day of February, 2012.**

  
Deputy City Recorder